

## ***MEMORANDUM***

**DATE:** September 1, 2006

**TO:** Members of the Commission

**FROM:** John C. Stokes, Executive Director

**SUBJECT:** Summary of the September 8, 2006 Meeting Packet

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### **Office of Administrative Law and Review of Local Approvals**

There are no OAL or staff hearing reports for the Commission to consider this month.

### **Public Development Applications**

Ten public development applications are being recommended for approval with conditions.

1. Evesham Township Municipal Utilities Authority, Evesham Township, Rural Development Area, improvements to the existing Kings Grant Wastewater Treatment Plant site and the replacement/relocation of an existing sanitary sewer force main.
2. New Jersey Department of Environmental Protection, Division of Remediation Management and Response, Southampton Township, Rural Development Area and Forest Area, installation of a groundwater extraction and collection system for extracting contaminated ground water from a former landfill.
3. Egg Harbor Township Board of Education, Egg Harbor Township, Regional Growth Area, three building additions, totaling 11,402 square feet, to an existing 98,181 square foot school and associated site improvements.
4. Township of Jackson, Jackson Township, Pinelands Village, construction of a 33,600 square foot public works storage building.

5. Borough of Folsom, Folsom Borough, Pinelands Village, realignment of the intersection of 13<sup>th</sup> Street and Mays Landing Road.
6. Federal Prison Industries, Inc., New Hanover Township, Military and Federal Installation, establishment of a consumer electronics recycling center.
7. Atlantic County Department of Regional Planning and Development, Hamilton Township, Regional Growth Area, two lot subdivision and no further development.
8. Township of Egg Harbor Township, Egg Harbor Township, Regional Growth Area, construction of a recreational facility and associated development.
9. Township of Stafford, Stafford Township, Regional Growth Area, installation of a potable water test well.
10. Egg Harbor Township Municipal Utilities Authority, Egg Harbor Township, Regional Growth Area, installation of 3,405 linear feet of gravity sanitary sewer main.

### **Certificate of Appropriateness**

There is one Certificate of Appropriateness recommended for approval. The Certificate of Appropriateness is for two cultural resource sites associated with the Fort Dix/McGuire housing project approved at last month's Commission meeting.

### **Waivers of Strict Compliance**

There are five applications for waivers of strict compliance. One application proposing the development of one single family dwelling is recommended for approval. Four waiver applications are recommended for denial.

### **Letters of Interpretation**

There were 11 PDC Letters of Interpretation (LOI) issued this month. The LOIs allocated 5.25 PDCs to 173.24 acres.

### **Recreation Permit**

There were no recreation permits issued this month.

### **Certificates of Completeness or Superfund Cleanups**

There were no Certificates of Completeness or Superfund Cleanups issued/approved during the past month.

**Resolutions Relating to Municipal Ordinances**

With respect to local conformance activities, we have included reports on municipal ordinances submitted by Buena Vista and Galloway Townships. Buena Vista Township Ordinances 4-2006 and 9-2006 adopt a Redevelopment Plan for the Richland Village Redevelopment Area. Galloway Township Ordinance 1653-2006 revises the provisions of the R5C Cluster Overlay, an overlay zone within which density transfer is permitted for purposes of protecting a heron rookery. We are recommending full certification of the Buena Vista and Galloway ordinances.

**Other Resolutions**

The Permanent Land Protection Committee recommends hiring Conservation Resources Inc. as the Program Facilitator for the Land Acquisition Program of the Pinelands Conservation Fund. Conservation Resources Inc. will assist in recommending priority acquisition projects and closing the purchases. The enclosed resolution allows the Executive Director to enter into a contract with Conservation Resources Inc.

As I've reported in the past, implementation of the 2004 settlement agreement regarding the Sanctuary development has been delayed because of the developer's delays in re-designing Georgia O'Keefe Way in accordance with the terms of the settlement. The developer has now completed the re-design but has requested one, relatively modest change in the design requirements so as to avoid impacting an existing sheet pile dam. A resolution authorizing the change is enclosed for your review and consideration.

**Ordinances Not Requiring Commission Action**

We have also included a memorandum on seven ordinances which we reviewed and found to raise no substantial issues with respect to CMP standards. These amendments were submitted by the Townships of Buena Vista, Lacey, Pemberton and Tabernacle.

**Other Agenda Items**

The Commission's Communications Office will provide an overview of the Pinelands Commission Web Site.

**Closed Session**

At this time, we do not see a need for a closed session.

**Other Materials**

Included in your packet in a separate envelope is a memorandum from Ms. Young regarding upcoming Committee meetings for your information.

As always, the management report is enclosed.

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
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# September

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3	4 HOLIDAY - OFFICE CLOSED  LABOR DAY	5	6	7	8 9:30 a.m. - Pinelands Commission Mtg. - RJS Center	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26 7:30 p.m. - Pinelands Municipal Council Mtg. - Weymouth Township	27	28 Seminar & Banquet Hyatt Regency in New Brunswick	29 Seminar- Hyatt Regency in New Brunswick  -P&I RESCHEDULED TO OCTOBER 3 -PLP CANCELLED	30

Sunday

Monday

Tuesday

Wednesday

Thursday

Friday

Saturday

# October 2006

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1:00 p.m. - P&I  
Committee  
3:30 p.m. - Science  
Committee  
6:00 p.m. - P&G  
Committee All  
mtgs. in RJS

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5

9:30 a.m. - P&B,  
RJS Center, Library

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HOLIDAY - OFFICE  
CLOSED  
  
COLUMBUS DAY

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10:00 a.m. -  
Housing Task  
Force Mtg. - RJS  
Center

7:00 p.m. -  
Pinelands

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9:30 a.m. -  
Pinelands  
Commission Mtg. -  
RJS Center

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1:00 p.m. - Science  
Committee Mtg. -  
RJS Center

29

30

6:00 p.m. - P&G,  
RJS Center

31



**State of New Jersey**  
**THE PINELANDS COMMISSION**  
PO Box 7  
NEW LISBON NJ 08064  
(609) 894-7300

## **NEW JERSEY PINELANDS COMMISSION**

**September 8, 2006**  
**Meeting Agenda**

**Richard J. Sullivan Center for Environmental Policy and Education**  
**Terrence D. Moore Conference Room**  
**15C Springfield Road**  
**New Lisbon, New Jersey**

**9:30 a.m.**

1. Call to Order
  - ✍ Open Public Meetings Act Statement
  - ✍ Roll Call
  - ✍ Pledge Allegiance to the Flag
2. Adoption of Minutes
  - ✍ August 11, 2006
3. Committee Chairs' and Executive Director's Reports
4. Office of Administrative Law
  - ✍ None
5. Review of Local Approval
  - ✍ None
6. Public Comment on Agenda Items
7. Development Review Matters
  - ✍ Review of Public Development Projects
  - ✍ Review of Certificate of Appropriateness
  - ✍ Review of Waivers of Strict Compliance

✍ Other Development Review Matters

8. Resolutions Relating to Municipal Ordinances

- ✍ Issuing an Order to Certify Ordinances 4-2006 and 9-2006, Adopting the January 2006 Richland Village Redevelopment Plan and Amending the Zoning Map of Buena Vista Township
- ✍ Issuing an Order to Certify Ordinance 1653-2006, Amending the Certified Land Management Ordinance of Galloway Township

9. Other Resolutions of the Commission

- ✍ To Authorize the Executive Director to Enter Into a Contract for a Program Facilitator to Assist in Implementing the Land Acquisition Program of the Pinelands Conservation Fund
- ✍ To Authorize a Revision to the 2004 Stipulation of Settlement Regarding the Sanctuary Development

10. Ordinances Not Requiring Commission Action

- ✍ Buena Vista Township Ordinance 14-1997
- ✍ Lacey Township Ordinance 06-38
- ✍ Lacey Township Ordinance 06-39
- ✍ Pemberton Township Ordinance 7-2006
- ✍ Pemberton Township Ordinance 8-2006
- ✍ Pemberton Township Ordinance 9-2006
- ✍ Tabernacle Township Ordinance 2006-5

11. Public Comment on any Matter Relevant to the Commission's Statutory Responsibilities

12. Other Agenda Items

- ✍ Overview of the New Pinelands Commission Web Site

13. Closed Session - Personnel, Litigation, & Acquisition Matters - The Commission reserves the right to reconvene into public session to take action on closed session items

14. Adjournment

For more information, e-mail the [Public Programs Office](#) or call (609) 894-7300.



PC2-114

PINELANDS COMMISSION MEETING

Richard J. Sullivan Center  
Terrence D. Moore Conference Room  
15 Springfield Road  
New Lisbon, New Jersey

Minutes

**August 11, 2006**

Commissioners Present

Candace Ashmun, William Brown, Guy Campbell, Leslie M. Ficcaglia, John A. Haas, Robert Hagaman, Stephen Lee, Edward Lloyd, Norman F. Tomasello, and Chairperson Betty Wilson. Also present were Executive Director John C. Stokes and Deputy Attorney General Valerie Haynes.

Commissioners Absent

Robert McIntosh, Patrick Slavin, Francis A. Witt, and Edward A. Wuillermin, Jr.

Chairperson Wilson called the meeting to order at 9:35 a.m.

Deputy Attorney General Haynes read the Open Public Meetings Act Statement.

Mr. Stokes called the roll.

The Commission and public in attendance pledged allegiance to the Flag.

Minutes

Chairperson Wilson presented the July 14, 2006 Commission meeting minutes. Commissioner Lee moved the adoption of the minutes. Commissioner Haas seconded the motion.

Commissioner Ficcaglia stated that at the last Commission meeting she had some comments on the Stafford Landfill issue which she would like reflected in the minutes. She stated that she has provided her comments to Ms. Whitton who will prepare those revisions shortly.

Chairperson Wilson stated that the Commission will continue with agenda items and return to the adoption of the minutes later on in the meeting.

#### Committee Chairs' and Executive Director's Reports

##### CMP Policy and Implementation Committee

Chairperson Wilson reported that the CMP Policy and Implementation Committee met on July 20, 2006 and adopted the minutes of the May 26, 2006 meeting.

The Committee discussed Buena Vista Township's Redevelopment Plan for Richland Village. A public hearing on the implementing ordinances has been scheduled for August 8, 2006.

The Committee received an update on the Ecological Integrity Assessment project from the Science Office.

The Committee received a presentation regarding enhancements to the PDC Program. Staff was asked to return with more background material and an assessment of goals of the Program.

##### Audit Committee

Chairperson Wilson reported that the Audit Committee met on July 24, 2006 and adopted the minutes from the February 27, 2006 meeting.

The Committee received and briefly discussed the draft audit report for FY2005. Committee members were pleased that the audit report contained no findings and recommended it to the full Commission for acceptance. The Committee further recommended that the staff be congratulated for doing a good job in preparation for and achieving a clean audit.

The Committee reviewed "discussion points" relating to the Commission's new application fees which were raised by the auditors about additional revenue coming in and the authorization for that. She indicated that this is a separate matter from the audit and will be discussed separately with the State Auditors. The Committee felt that the State Auditors should have a basic knowledge of the structure of the application fees. The Audit Committee will be meeting with the State Auditors following today's Commission meeting to provide them with information on the basic structure of the application fee process and to answer any questions they may have on this matter.

##### Personnel and Budget

Commissioner Ficcaglia reported that the Personnel and Budget Committee met on July 24, 2006 and adopted the minutes of the June 1, 2006 meeting with one change.

The Commission considered the resolution To Adopt the Pinelands Commission's Fiscal Year 2007 Budgets for the Operating Fund, the Kirkwood Cohansey Aquifer Assessment Study Fund, the Pinelands Conservation Fund, the Pinelands Development Credit Purchase Program Fund and the CCMUA Land Acquisition Fund. Staff discussed a few changes made to the budget since the last meeting. The proposed operating budget is more than 6% lower than last year's budget with no draw from the fund balance needed. Also reviewed were the authorized and funded staffing levels and a few items which will need to be carried over from FY 2006. Ms. Connor emphasized budget notes #44 and #45 which will, upon Commission approval of the budget, authorize the Executive Director to purchase certain items and services. After the discussion, the Committee unanimously recommended Commission approval of the resolution and attachments.

The Committee discussed equity adjustments. A copy of the FY2007 Salary Increase Recommendations were distributed to the Committee. It was noted that research of salaries from similar governmental agencies was done supporting the equity adjustments. Also discussed were promotions and merit increases, all of which are funded in the proposed budget. The Committee approved the salary increase recommendations.

The Committee reviewed equipment capitalization system deletions. The list of items scheduled for deletion as of June 30, 2006 was reviewed. The Committee approved the list.

Additional information on several of the checks and the Electronic Fund Transfers for May 2006 was provided.

The Committee reviewed employee actions for May 2006. It was reported that several employees are on medical leaves. The donated leave program was briefly discussed.

The Committee was provided an update on Fenwick Manor renovations. The design development phase for the 2<sup>nd</sup> floor of the barn has begun. The NJ Building Authority advised that the bids for the barn roof replacement and the handicapped sidewalk were higher than expected. Repair of a sewer line was done and an expert report was received regarding the uneven ventilation in the RJS building.

The Committee received an update on application fees. The total amount received through June 2006 was \$820,839.85 and a refund of over \$48,000 will be processed in July.

The Commission received an update on National Park Service agreements. An additional \$5,000 for the Pinelands conference has been included with this year's funding amendment to the existing Cooperative Agreement.

The Committee held a closed session to discuss a confidential personnel matter.

Chairperson Wilson returned to the matter of the adoption of the minutes. She stated that there is a motion and a second to adopt the minutes by Commissioners Lee and Haas.

Commissioner Ficcaglia's revisions on PC2-110, 4<sup>th</sup> paragraph, to the July 11, 2006 minutes were circulated to the Commission. Commissioner Ficcaglia's noted two minor corrections in the paragraph changing the word "at" to "of" in the paragraph. The complete paragraph with the revisions now reads, "Commissioner Ficcaglia stated several issues of concern. She questioned whether we are getting any environmental improvements. She noted that an independent environmental consultant with no axe to grind had raised the same concerns about water quality and effectiveness of the proposed cap that Commissioner Lloyd and Carleton Montgomery had articulated, which was compelling for her. She also expressed concerns that for the first time the Pinelands Commission was advocating relocation not only of threatened and endangered animals but plants as well. She also stated that the Commission needs to protect threatened and endangered species and moving plants is not the solution. She stated that botanists have noted that even if a large area of earth is relocated around an orchid, for example, the plant does not survive. She felt this was a terrible precedent to set."

Commissioner Ficcaglia moved to amend the minutes. Commissioner Tomasello seconded the motion. The Commission adopted the amendment by a vote of 10 to 0.

The Commission then adopted the full amended minutes moved by Commissioner Lee and seconded by Commissioner Haas by a vote of 10 to 0.

#### Executive Director's Report

Mr. Stokes reported on the following items:

- o Mr. Stokes noted that, since the Commission's anniversary event will be held on September 28 and 29 of this year, the CMP Policy and Implementation Committee and the Permanent Land Protection Committee will have to be rescheduled. He suggested that both meetings be rescheduled to October 6. Some members of the Committees asked that it be scheduled earlier in that week. Mr. Stokes stated that Ms. Young will be contacting Committee members.
- o The Commission received the annual report on the alternative septic program this morning. Later this fall, staff is scheduled to report to the Commission on the initial 5-year program and whether or not the program should be extended or changed. Mr. Wengrowski's report suggests that the Commission extend this initial stage of the program by 2-years. A more detailed program review will be provided in the fall as scheduled.
- o In reference to the Stafford Landfill and Redevelopment Park, the Governor's review period of the July 11, 2006 minutes has passed. Staff is now in the process of executing the memorandum of agreement between the parties. Staff is also working with the DEP and the developer on the species management plan. Most of the details are developed at this point and a meeting is scheduled for next week in an effort to try and bring this matter

to closure.

- o Mr. Liggett is following up on the possibility of constructing an Evapotranspiration cap, which was subject to discussion in the Stafford Landfill matter, on a pilot basis with the Cape May County Municipal Utilities Authority. Their landfill is lined and this was one of the criteria that the DEP has suggested. A meeting was held with representatives of the Cape May County MUA yesterday, and they have expressed some interest in pursuing this. A number of details still need to be investigated. Staff will be consulting with two groups who are testing ET caps--one from Maryland and one from Georgia.

Chairperson Wilson asked if there is any state grant money available for this.

Mr. Stokes replied that he does not believe so although staff continues to learn more and more about landfills and landfill closures. The Authority is required to make a payment to a state fund for closure and they can draw on that money to finance their own closure, although the amount contributed generally is more than what it would cost them to close their landfills. He said that there aren't too many landfills operating, so the overall amount of the fund is fairly limited. He said that Cape May's part of that is fairly substantial and would probably exceed what they would need for normal closure so they might be able to draw on that excess.

Commissioner Brown asked if Cape May has a cell that is now ready to be closed.

Mr. Liggett responded that everything is sort of connected and it is hard to tell. He noted that their closing is phased over time and that there is no specific cell that is totally ready to be closed at this point.

Mr. Stokes stated that he believes that CMCMUA representatives indicated that there is one cell that they are no longer using on which they placed a temporary cover. This cell is may be ready for closure.

Commissioner Brown indicated that the landfill is now continuously generating methane.

Mr. Stokes continued with his report:

- o The Appellate Division issued its decision in the matter of the Buena Regional School District upholding the Commission's conditional approval of the middle school. The conditions are that the sewer service violation in Buena be resolved or a plan to resolve the matter be in place. Staff continues to work with the Buena MUA on this matter. Buena MUA has a contract to purchase property and they have to go through a subdivision process which requires Pinelands Commission approval.

Commissioner Lee asked if the soil analysis has been completed.

Mr. Stokes replied that a preliminary analysis has been completed. However, there will be more in-depth soil analysis which cannot begin until the MUA actually takes title to the property.

Commissioner Lee asked whether the MUA was not going to take title until the subdivision is complete.

Mr. Stokes replied that they need to subdivide off a piece of the property in order to purchase the remaining property.

Commissioner Lee asked if there is no way to do the soil sample before the subdivision.

Mr. Stokes replied that staff had explored that with the MUA and apparently there is a long history between the MUA and the property owner. It is our understanding that the property owner was not going to give them permission to conduct final testing.

Mr. Stokes continued with his report:

- o The Commission received in its packets the Annual Report for 2005.
- o Staff is scheduled to report to the Commission on the Kirkwood-Cohansey work plan in the Fall. He stated that staff has had discussions with representatives of the USGS who are suggesting some changes to the research plan and the budget. Staff is attempting to schedule a Science Committee meeting so that these matters can be reviewed before this matter is brought before the Commission.

Mr. Horner reported on the following items:

- o Staff will be meeting on August 30, 2006 with representatives of Lacey Township and an applicant over some violation matters which have been outstanding for a long time. Part of the issue is a motocross track on the parcel.
- o Staff received an inquiry from Pemberton Township about reestablishing the local review officer program.
- o Mr. Horner met in Hammonton on July 28 in an effort to bring a violation matter to conclusion regarding the placement of contaminated fill on a parcel of about 20 acres. Hammonton officials have been very cooperative and very determined to work with the Commission to resolve the matter. It has been two years since the initial violation was reported. He thanked Hammonton officials for working with the Commission for so long on this matter.
- o An application for a single family dwelling was submitted to the Commission where threatened and endangered species was an issue on the parcel. He noted that the applicant

owned adjacent lands to the parcel, and about a year ago staff suggested a way to cluster development as a way to resolve the threatened and endangered species. The applicant at that time was not inclined to proceed in this manner. Staff met recently with the applicant and his attorney and were able to arrive at a conclusion to the matter where the development will be clustered.

- o Staff has been contacted on a matter involving the dredging of the lakes in Medford Lakes noting that several of the dams had washed out in the storm several years ago. While those dam applications were being processed by both the DEP and Commission staff, several of the applicants decided it provided an opportunity to dredge the lakes. Based on the Commission's regulations, the dredge material contained certain levels of contaminants and is not permitted to be disposed of in the Pinelands Area. After meeting with the applicant on numerous occasions, the applicant finally made arrangements to remove the dredge material from the Pinelands. Mr. Horner indicated that he met with Mr. Richard Young, who is present today who will talk to the Commission during the public portion about his thoughts and concerns on reconstruction of the dams in the Pinelands as they may impact residents outside of the Pinelands in Lumberton Township. He noted that he also heard from the Administrator in Lumberton Township who has requested additional information concerning the levels of contaminants that were in the soils. Mr. Horner indicated that the dredge material is being used for fill for a recreational site.

Chairperson Wilson asked how many towns have local review officers and if there is a local cost.

Mr. Horner replied there are 18 towns that are involved in the local review program and that there is a local cost.

Chairperson Wilson asked whether Commission staff train those officers to ensure adherence to the CMP.

Mr. Horner replied that staff trains the local review officers to make sure that they understand the process. Information is also provided to them to implement the program and staff also works with them on almost an application by application basis.

Mr. Stokes added that Mr. Horner and Ms. Young are in the process of preparing a report to the Commission on this program. He said that there may be some recommendations to modify the program to ensure it is delivering the benefits that the Commission and staff hoped it would.

Chairperson Wilson referred to Mr. Horner's report relating to letters of interpretation and asked about one item involving 68 PDCs and asked why there is no name listed. She asked if this is Sims Place.

Mr. Horner replied that is correct and stated that there should have been a name on the letter.

Mr. Liggett reported on the following matters:

- o The Nature Conservancy purchased two properties for preservation with the Cape May fund.
- o There is a lot of activity on stormwater management. The new model ordinances have been sent out and staff has had at least two working sessions with DEP staff. Commission staff is training them on mounding as well as site and soil assessments along with other items. Staff is also having a joint session with the South Jersey Transportation Authority on stormwater management for the towns surrounding the airport. The Authority's interest centers on stormwater basins which are not draining and draw wildlife which is a danger to the aircraft.
- o There is a lot of activity with the Office of State Planning and Office of Smart Growth on finalizing the state plan cross-acceptance process. All the counties will be meeting on a variety of issues and staff is planning to participate. The Office of Smart Growth is also looking at the process itself to see if there is a way to speed it up.
- o Staff is also working with the Council on Affordable Housing on the new third round and the assignments. They are currently considering seeking grants to train officials in Pinelands towns on how to do this.
- o There are continuing issues with PDCs and affordable housing. There is a submission in Medford Township and staff will be looking at that ordinance to try and determine how staff might work with them on that.

Commissioner Ashmun noted that the public hearing for state plan endorsement for Stafford Township had to be rescheduled due to the notice process. The new hearing is scheduled for September 22, 2006 at the Stafford Township Municipal Building.

Commissioner Ashmun stated that there are towns all around and outside the Pinelands who are petitioning for plan endorsement. She indicated that this is a time consuming activity. She said that there should be some way of making sure that the Commission acknowledges the fact that these things are going on because it affects what the Commission does and how coordination between the two agencies work. Commissioner Ashmun stated that she will talk to Mr. Stokes to see if something can be worked out on this issue.

Chairperson Wilson asked if Mr. Liggett is doing some of the work on this issue.

Mr. Liggett replied that is correct. He noted that there are seven counties going through the cross-acceptance process now and there are a lot of issues staff would like to keep track of.

Mr. Stokes noted that there are a number of other things going on in which staff has been asked



to participate. He noted that staff cannot afford to be fully engaged in all of these things. He said that he would be happy to discuss this in more detail with Commissioner Ashmun.

Commissioner Ashmun said that she would be happy to work with staff on this matter.

Chairperson Wilson asked if the Fort Monmouth Advisory Committee has been formed yet.

Mr. Stokes replied that he doesn't know and noted for the Commission that the Governor's Office is pulling together a team to plan for the future of Fort Monmouth. He indicated that the Governor's staff contacted him to ask if Commission staff could help them in a number of the process issues that they will have to deal with. He stated that he has not heard anything more from the Governor's Office on this matter.

#### Public Comment on Agenda Items

Ms. Alice Fanezeno, Chief Environmental Counsel of McGuire Air Force Base, said that she is present today on behalf of the United States Air Force regarding an amended report on an application for public development dated August 4, 2006. She stated that this application relates to a joint housing development initiated by Fort Dix and McGuire Air Force Base to completely redevelop all of the houses. She referred to a paragraph in the report that mentions two parcels that have some historical preservation issues. She said that these two parcels are not part of the housing development and these sites have been preserved in place for quite some time. Within the application, the Pinelands Commission must issue a Certificate of Appropriateness before any development on these parcels can occur. She said that she does not know what the conditions for the issuance of this certificate are. She said that rather than contest that at this point, they would like the project to go forward. She offered a number of ways to preserve these parcels by working with the developers and incorporating language in their planning documents and their environmental management plan to say that these parcels are not to be touched. She further stated that these areas can be flagged and/or fencing can be constructed. She said that the project is critical and the Base does not want to stall the project from going forward relative to these two very minor issues. She said that anything that is done on this site should be separate and apart from what is going on with United Communities and the development of this whole parcel.

Mr. Richard Hluchan, Attorney for United Communities which is the private developer for the military housing revitalization project, reiterated Ms. Fanezeno's statements on the two historical parcels. He said that the two cultural resource sites in question are not part of the development contract and that the two sites will remain with the Air Force. He said to the extent that preservation of those two sites is a condition of any approval going forward, it is not within the United Communities' control because the Air Force is not conveying those two sites to his client. He said that no development is taking place on those sites. He indicated that they do not have any problem with the amended report that is before the Commission for approval today and encourages the Commission's approval. He said that his consultant is in close communication with Commission staff and they are working toward the Certificate of Appropriateness. He said

their timeline is to have this matter before the Commission at its September Commission meeting. This is critical to them because they are looking at closing in late September. There have been discussions between Commission staff and the parties where a deed restriction might be required, but noted that the Air Force cannot and will not give a deed restriction. He said that they are confident that these two sites will be preserved because all the parties involved want to preserve them. Mr. Hluchan thanked Mr. Stokes, Mr. Horner and staff for the time they afforded them in helping with this project.

Mr. Harry Monesson from Pemberton Township commented on the military's critical situation and the development of 1800 housing units and stated that there is a critical situation on Magnolia Road in Pemberton Township. He said that if the Commission is going to pass any kind of decision in favor of the federal government, he expects the same treatment for those who live on Magnolia Road. He commented on agenda item #9 relating to the Commission's budget, and stated that the PDC purchase program and the land acquisition fund are redundant and destructive.

Commissioner McIntosh joined the meeting by telephone at this point but the call was terminated briefly after connection.

#### Development Review Matters

##### Review of Public Development Projects

Mr. Stokes stated that Application Numbers 1981-0656.018, State of New Jersey - Department of Human Services, 1986-0802.005, Monroe Municipal Utilities Authority and 1991-0820.063, United States Air Force and the United States Army (United Communities), are applications for public development recommended for approval with conditions.

Commissioner Ashmun moved the adoption of the Resolution Approving With Conditions Applications for Public Development (Application Numbers 1981-0656.18, 1986-0802.005, 1991-0820.063). (See Resolution #PC4-06-51 attached). Commissioner Tomasello seconded the motion.

Relative to Application # 1991-0820.063, United States Air Force and the United States Army (United Communities), Mr. Stokes stated that a Certificate of Appropriateness is the Commission's permit that deals with historic resources. He said that whenever a project may have an effect on a historic resource, the Commission has an obligation to issue a Certificate of Appropriateness which is based on the steps needed to manage that resource. He said that staff has been working with the applicant on this project to try and resolve all the outstanding questions in order to present the matter to the Commission today. He stated that staff received the last information on this issue within the past week and that is why the Commission has an amended report today. He said that staff wanted to get the project before the Commission today and then work out the final details on the Certificate of Appropriateness. He stated that the issue

arises because the private developer is not leasing the area in which the two sites are located. They are, however, immediately adjacent to the proposed project and, in some of the earlier designs, some of homes were located within or immediately adjacent to the site. He said that whether or not United Communities has a lease hold interest in the cultural resource sites is not material to the application. Staff feels confident recommending the project to the Commission and appreciates the opportunity to work with the military and the developer who was very responsive to staff's requests.

Commissioner Ashmun stated that the conditions are intended to protect the site but that there is no physical protection being required.

Mr. Stokes stated that since the information was received late, staff was not able to develop specific management strategies in consultation with the applicant. He stated that this is the matter that will come back to the Commission in September.

Mr. Horner responded to Commissioner Ashmun's concern regarding the protection of the two sites, stating that no development will occur at this time within parcels B and C which are the sites of concern. The Commission's action today does not authorize development on or in the vicinity of parcel B and C until the Certificate of Appropriateness is issued which will detail the specific treatment of the resources.

Commissioner Lee stated that these sites are an old saw mill site and an old farmstead site and if these sites are critical to the Pinelands mission in protecting the resources of the Pinelands and the military can accommodate them as part of their mission, the Commission should get on with it.

Mr. Stokes stated that is staff's intention.

Commissioner Hagaman asked when the project will begin.

Mr. Stokes replied that he believes that the developer hopes to close on the lease with the military sometime in September and expects that work will begin shortly thereafter.

Mr. Hluchan stated that his client is scheduled for closing at the end of the September and anticipates commencing work in October if everything is resolved.

The Commission adopted the resolution by a vote of 10 to 0.

#### Waivers of Strict Compliance

Chairperson Wilson stated that Application Numbers 1981-2153.02, Robert Keil, Jr. and 1988-0374.002, Jeff Bowman, are applications for waivers of strict compliance recommended for approval with conditions.

Commissioner Ashmun moved the adoption of the Resolution Approving With Conditions Applications for Waivers of Strict Compliance (Application Numbers 1981-2153.002, 1988-0374.002). (See Resolution PC4-06-52 attached). Commissioner Hagaman seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Chairperson stated that Application Number 2001-0606.001, Antoinette Sedita, is an application for a waiver of strict compliance recommended for denial.

Commissioner Brown moved the adoption of the Resolution Denying an Application for a Waiver of Strict Compliance (Application Number 2001-0606.001). (See Resolution #PC4-06-53 attached). Commissioner Tomasello seconded the motion.

The Commission adopted the resolution by a vote of 10 to 0.

Chairperson Wilson stated that there are 7 Letters of Interpretation identifying 76 PDCs on 2,730 acres.

Commissioner Ashmun stated that when one is talking about PDCs, there are 4 rights per PDC.

#### Other Resolutions of the Commission

Mr. Stokes presented the Resolution To Adopt the Pinelands Commission's Fiscal Year 2007 Budgets for the Operating Fund, the Kirkwood Cohansey Aquifer Assessment Study Fund, the Pinelands Conservation Fund, the Pinelands Development Credit Purchase Program Fund and the CCMUA Land Acquisition Fund. (See Resolution #PC4-06-54 attached).

Commissioner Haas moved the adoption of the resolution. Commissioner Campbell seconded the motion.

Mr. Stokes provided the Commission with a Power Point presentation to highlight some of the more notable parts of the Commission's FY 2007 budget. He went over the Commission's operating budget which recommends expenditures of \$4,698.450. He compared this year's budget to previous years noting that for the second year in a row this operating budget does not anticipate the Commission drawing any funds from its undesignated fund balance. He said that the FY 2007 budget is a balanced budget. He went through expenditure estimates for the Kirkwood-Cohansey, Pinelands Conservation Fund (Land Acquisition, Conservation Planning, and Community Planning), PDC Purchase Program, and the Cape May Acquisition. Lastly, Mr. Stokes briefed the Commission on personnel positions and the FY 07 Work Plan which focuses on major projects already underway as well as a few new challenging projects. (See presentation attached).

The Commission adopted the resolution by a vote of 10 to 0.

Ordinances Not Requiring Commission Action

Chairperson Wilson stated that Evesham Township Ordinance 19-6-2006, and Hamilton Township Ordinances 1551-2006 and 1566-2006, are ordinance amendments that do not raise a substantial issue with regard to the provisions of the Comprehensive Management Plan.

The Commission did not take action on the ordinance amendments allowing them to take effect.

Public Comment on any Matter Relevant to the Commission's Statutory Responsibilities

Mark Brenner, a wetlands ecologist, stated that he works in the field of wetlands restoration and asked the Commission if they support wetlands restoration and wetlands mitigation in the Pinelands.

Chairperson Wilson noted for Mr. Brenner that the Commission's normal format for public comments is not to engage in a dialogue. She stated that if Mr. Brenner has specific questions on wetland issues he should speak directly to Mr. Stokes following the meeting.

Mr. Brenner stated that there are some large infrastructure projects that are planned in the Pinelands region that could impact wetlands. He stated that he has been tracking these because he works and develops wetlands banks to compensate for those impacts. He stated that he contacted Commission staff and is confused as to whether or not the Commission supports wetlands restoration inside the Pinelands.

Chairperson Wilson encouraged Mr. Brenner to make his questions and concerns known to Mr. Stokes.

Mr. Carleton Montgomery from the Pinelands Preservation Alliance commented on a development project proposed by Hovnanian located in the Pinelands National Reserve. He stated that this area is not in the Pinelands Area, nor is it in the CAFRA area, noting that there is no obvious way to implement the regulations of the Comprehensive Management Plan.

Mr. Stokes pointed to a map showing the approximate location in Jackson Township where the development is proposed. He noted that this area is outside of the state's designated Pinelands area, but within the Federal planning area, and outside of the CAFRA area.

Mr. Montgomery stated that the area is within the CMP. He said that the area is designated a Forest Area and is adjacent to the Colliers Mills Wildlife Management Area. He indicated that the proposed development is inconsistent with the CMP. He said that PPA has made this case to the State and the Federal government that this area is required to be treated, as the CMP provides, under the Federal Act. He said that Mr. Stokes has written a letter to the State suggesting that a

way be found to ensure that the CMP is implemented in this area. One of those ways is getting it designated through the State Plan that the area will be consistent with the CMP designation. He said that this is potentially in the works. There is a specific concern here because this area is habitat for Northern Pine Snakes. The developer has written a report suggesting that any snakes that are found during the development process will be removed to a location within the adjacent Collier Mills Wildlife Management Area or transferred to other suitable areas nearby. He said that the language is reminiscent of what the Commission did in the MOA for Stafford. He asked what the Commission is going to do about this to make sure that the Stafford MOA does not become the model that forces other agencies and the Commission in the future to allow the shifting, moving, and transferring of threatened and endangered species.

Mr. Fred Akers from the Watershed Association referred to the decision the Commission made on the Stafford landfill matter and stated that he was glad to see the Commission's concern for water quality in Regional Growth Areas. He stated that he was invited to a meeting in Winslow Township to listen to the Camden County Municipal Utilities Authority talk about their proposal to divert water out of the Great Egg River into the Delaware River. He stated that Winslow Township has a really good wastewater facility. He said that they want to close that facility and take that 2 million gallons per day and put it through Camden into the Delaware River. He said that prior to going to the meeting he looked into the water quality in a number of areas stating that the whole Great Egg River does not meet the designated uses for pH in the Pinelands because it is too high. He said that one of their arguments to close the sewerage treatment plant is that the sewerage water that is being put in the ground now is not of good quality and, if they stop putting it into the ground, that should improve the water quality. He said that they are saying that they need 3 million gallons per day to support their build out of development in Winslow.

Mr. Richard Young, a 30 year resident of Lumberton Township in Burlington County, stated that he lives in the flood plain adjacent to the south branch of the Rancocas Creek. He said that there is now about 5 feet of sediment in the Rancocas Creek which stems from the flood of 2004. He said that this sediment is raising the water table which has killed trees along the banks. He said that upstream, and outside of Lumberton in both Southampton Township and Medford Township, there are 77 dams of which 21 have collapsed and 30 more are damaged. He referred to the new construction that is going to occur with the dams, the permitting process, and the sediment that has occurred and indicated that he has done some research to try and find out what state agencies are involved in all of this. He said that he met with representatives of the Rancocas Watershed Management Area who provided him with their plan that addressed all aspects of the watershed but not dams.

He indicated that both the representative from the Watershed Management Area and Mr. Leakan said that they defer matters relating to dams to the DEP. He met with John Moyle, Director of the Bureau of Dam Safety and Control from DEP who said that he has nothing to do with sedimentation. He said that Mr. Moyle explained that the problem with almost all of the dams that collapsed or were damaged is that the spillways were too narrow, allowing water to raise up the face of the dams and top them. The back of the dams were earthen and eroded which made

the dams collapse. Mr. Moyle indicated that the solution to this is to put a cement back on all the dams and widen the spillways.

He indicated that wide spillways do protect the dams, but it won't do anything for the people who live downstream which will become flooded. He said that he met with Mr. Horner, who also said that the Pinelands Commission is not involved in dams.

He said that he understands that the dams are grandfathered in and there is not much that the Commission wants to do about them, but indicated that wide spillways that destroy downstream properties should not be grandfathered. He said that he believes it is the Commission's authority and responsibility to have some control over dams and how they manage water. He referred to other sections in the Pinelands Plan that mentions adverse ecological impacts in the Pinelands and suggested that the section include "adjacent areas." He said that he believes it is the Commission's authority and responsibility to address the issue of dams and to put an overlay on its own regulations, on top of the DEP's, just as the Commission does for other issues.

Commissioner Lee asked if Mr. Young's objective is to have dams accomplish more than the current approved design seems to do.

Mr. Young replied yes, and stated that he asked Mr. Moyle if it is possible to have motorized spillways on them. Mr. Moyle said yes, but explained that it was expensive. Mr. Young suggested having motorized spillways and level monitors on the lakes at strategic points to have a controlled incremental release of water. He added that the owner of the dams should pay for this.

Chairperson Wilson stated that the Commission needs to have some more discussion about this in the appropriate forum.

Mr. Harry Monesson stated that the Commission has no control over an act of God. He also commented on agenda item #9 relating to the Commission's budget and stated that no other program has been more misused by this Commission than that of the Pinelands Development Credit program.

Mr. Stokes referred to Mr. Montgomery's comments on Jackson Township in terms of how the Pinelands Commission's policies might be implemented there and stated that this might be done not only through the DEP permitting program, but through municipal zoning and development ordinances. He said that staff has advised the township of this. He referred to Mr. Akers' comments on the Winslow Township sewer treatment plant, and stated that staff has been working with Winslow Township and the Camden County MUA for a number of years on both their water supply and wastewater service issues. One of the things that staff thinks is very positive is that the municipality is now intending to secure much of its water supply from New Jersey American Water and the Delaware River water supply project. He said that, to the extent that they receive their potable water supply from the Delaware, it makes some sense that it be treated and discharged back to the Delaware River. They are moving in this direction. Staff is

working with the parties. He referred to Mr. Young's comments and said that in terms of construction of dams, the Commission does defer to the DEP. He would have to defer to the Commission's Deputy Attorney General as to whether the Commission has statutory authority for overlay regulations. He stated that he expects that the Commission does have authority, because it has done that in other areas. He said that the Commission needs to make choices as to where it thinks it can best protect the region's ecology and discharge its responsibilities. Relative to downstream impact, siltation and the financial burden, one has to recognize that some of the issues now relating to the dams are not historical issues and were not caused by the owners of the dams. He said that he will have to contact the DEP, Division of Watershed Management, to try and get a better sense of what their policies are and whether there are any means to better address the issues.

Commissioner Ashmun noted that there are watersheds in the state where USGS, towns, and DEP have put together a flow control mechanism.

Commissioner Lee stated that Mr. Young raised some interesting issues and he believes it is appropriate for the Commission to spend some time to think about those.

Commissioner Lee referred to Mr. Stokes' comments on Camden County and Winslow Township, and the reports that were in the packet this month regarding Camden County and Monroe Township's stream flow. He said that the reports seem to be saying that there isn't an impact on stream flows due to the withdrawals. He said that if there is free water in Camden County, maybe the Commission should think about that. He said that analyzing stream flows isn't necessarily working. He said that there is something wrong if the result the Commission is getting doesn't match what everybody expects which is, if one pumps water out of a basin, it's going to have an impact. He said that maybe the Commission needs a consultant to come in to make sure that the methods it is employing are working.

Mr. Stokes referred to Camden County and stated that about a million gallons of wastewater per day is being exported to the Camden City treatment facility. The plans assumed that the water supply would be located within a given subbasin of a larger area. He said that some of the water supply wells have been located there, but much of the area is not serviced by the central water supply system. What we are seeing is the effects of a million gallons of water per day that is being dispersed because individual wells are providing that potable water. He said that a million gallons of water over a large area is not a lot of water and that is why one would not see much of an impact at this point. He said that this is one of the reasons why the Kirkwood/Cohansey research project is so important.

#### Other Agenda Items

##### Overview of the New Pinelands Commission Information System



Mr. Stokes stated that the Pinelands Information System (PCIS) was brought on line about a year ago and there was a transition period that staff went through. The MIS office as well as the other offices who utilize the system have been working to refine what is a great system. He said that Mr. LaMacchia's office has done an outstanding job, not only to help develop and launch the system, but in managing the system and identifying opportunities to improve it. He said that he felt that with a year "under its belt," staff should provide the Commission a better sense as to what the capabilities of the system are.

Mr. LaMacchia, Manager of the Commission's MIS office, presented the overall architecture of the system indicating how and why the system was built the way it was. He went live on the system showing some of the capabilities of the different screens and discussing some of the different and unique features in the program and how these are used and how it interacts with information from other offices.

Chairperson Wilson thanked Mr. LaMacchia for his presentation and the great job done on the PCIS.

Commissioner Lee also thanked Mr. LaMacchia and stated that he asked a number of questions a few months ago about the PCIS because one of the charges of the Public and Governmental Programs Committee is making information available to the public. He stated that the PCIS offers a huge opportunity for public access and suggested that the Commission find a way to fund access by the public to some of this information. He said when the Commission opens its doors and Internet access, it will find a public that will be very appreciative of its efforts.

Chairperson Wilson concurred and stated that she doesn't think the budget has been the problem but rather a question of making sure that the Commission's "house" is in order before opening the doors to the public.

Commissioner Lee concurred and stated it has been a little bit of both.

Mr. Stokes agreed and stated that the public is an important part, but municipalities should also be able to access the system.

Mr. LaMacchia stated that the FY 2007 budget anticipates that process to begin. He said that the first step in this process is to conduct one or two workshops where the stakeholders will be brought together to begin discussing just what it is the Commission would like to achieve. His thought is to have some representation from the Commission, from the general public and from municipal officials. He said that he looks forward to getting started with this process.

### Adjournment

Commissioner Ashmun moved to adjourn the meeting. Commissioner Hagaman seconded the motion. The Commission agreed to adjourn the meeting at 12:30 p.m.

PC2-131

Certified as true and correct:

\_\_\_\_\_  
Nadine B. Young,  
Executive Assistant to the Commission

Date: \_\_\_\_\_

## **M E M O R A N D U M**

**TO:**                   **Members of the Commission**

**FROM:**             **Charles M. Horner, PP.**  
                          **Director, Regulatory Programs**

**SUBJECT:**         **Actions Taken on Applications Filed Pursuant to**  
                          **Comprehensive Management Plan**

**DATE:**             **September 1, 2006**

### **I.   Initial Decisions by Administrative Law Judges**

We have not received any initial decisions by an Administrative Law Judge this month.

### **II.   Actions Taken on Applications**

#### **A.   Applications for Development in Uncertified Municipalities, Subchapter 4, Part II**

The procedural rules governing applications for development in uncertified municipalities require that an applicant first complete an application with the Pinelands Commission. The application is then reviewed and a Certificate of Completeness is issued noting whether the application should be approved, approved with conditions or disapproved. The rules require that the copies of the Certificate of Completeness be provided to the Commission, the applicant and other interested persons.

No **Certificates of Completeness** were issued during the past month.

Once a local agency takes action on the proposed development, notice of that action, either an approval or a denial, must be submitted to the Pinelands Commission. A determination is then made as to whether the local action raises a substantial issue with

respect to the conformance of the proposed development with the standards of the Comprehensive Management Plan. If the local action does not raise any issues, the local action is allowed to take effect. The local approvals and denials which did not raise any issues are listed on the monthly local approval memorandum that follows this memorandum.

If it is determined that an issued is raised, the application is called up for review by the Commission. Following a hearing, the Commission must either approve, approve with conditions or disapprove the proposed development. The approvals and denials which were called up for review by the Commission are included on the attached listing of call-ups.

**B. Review of Local Permits, Subchapter 4, Part III**

For those municipalities whose master plans and land use ordinances have been fully certified by the Commission, the procedures for applications for development are set forth in certified ordinances. In all these municipalities, if the local agency approves the proposed development, notice of that approval must be given to the Pinelands Commission so that a determination can be made as to whether the proposed development raises substantial issues with respect to the conformance of the proposed development with the Comprehensive Management Plan. If the local approval does not raise any substantial issues, the local approval is allowed to take effect.

If it is determined that a substantial issue is raised, the application is called up for review by the Commission. Following a hearing, the Commission must either approve, approve with conditions, or disapprove the proposed development.

Local approvals which were **called up** for review by the Commission are listed on the attached report.

**C. Public Development, Subchapter 4, Part IV**

All applications for public development are initially reviewed by the staff once a completed application is filed. Following that review, a report on the proposed development is submitted to the Commission recommending that the proposed development be approved, approved with conditions or denied. A copy of this recommendation is sent to the applicant and other interested parties. Any interested person who is aggrieved by the Executive Director's recommendation may request a hearing. If a hearing is requested the application is referred to the Office of Administrative Law. If no request for a hearing is received, then the Commission must act on the application at its next meeting after the time period for requesting a hearing has expired. The Commission may either approve the recommendation of the Executive Director or refer the recommendation of the Executive Director to OAL for a hearing.

If the Commission takes no action then the application is automatically referred to OAL unless the period of time for the Commission to act is extended pursuant to N.J.A.C. 7:50-4.4. The complete file for each application scheduled for your action is available for your inspection. You may either come to the Commission office to look at a file or request that I bring a file to the Commission meeting. If you want to look at a file at the Commission office, please call in advance so we can have the file ready for you.

The **Public Development** applications scheduled for the September 8, 2006 Commission meeting are listed on the attached report.

**D. Waivers of Strict Compliance, Subchapter 4, Part V**

All applications for Waivers of Strict Compliance are initially reviewed by the staff once an application has been completed. Following that review, a report on the requested Waiver recommending that the Waiver be approved, approved with conditions or denied is submitted to the Commission. A copy of the recommendation is sent to the applicant and other interested persons. Any interested person, including the applicant, who is aggrieved by the Executive Director's recommendation may request a hearing before the Office of Administrative Law (OAL). If a hearing is requested, then no action is to be taken by the Commission until the administrative hearing is held and an initial decision issued by the Administrative Law Judge. The Commission will be informed at the Commission meeting of any further timely requests for reconsideration that are received before the Commission meeting.

If no request for a hearing is received, then the Commission must act on the application at its next meeting after the time period for requesting a hearing has expired. The Commission may either approve the recommendation of the Executive Director or refer the recommendation of the Executive Director to the OAL for a hearing. If the Commission takes no action on the application, then the application is automatically referred to the OAL unless the period of time for the Commission to act is extended pursuant to N.J.A.C. 7:50-4.4. The complete file for each application scheduled for your action is available for your inspection. You may either come to the Commission office to look at a file or request that I bring the file to the Commission meeting. If you want to look at a file at the Commission office, please call in advance so we can have the file ready for you.

The applications for **Waivers of Strict Compliance** scheduled for the September 8, 2006 Commission meeting are listed on the attached report.

**E. Letters of Interpretation, Subchapter 4, Part VI**

A list of **the Letters of Interpretation** issued last month is attached.

Pursuant to N.J.A.C. 7:50-4.74, an analysis of all pending requests for Letters of Interpretation is to be submitted to the Commission at its regular meeting. Some of the Letters of Interpretation pending concern how various parts of Subchapter 6 impact on particular sites proposed for development. These requests for interpretation concern such issues as the location of fresh water wetlands present on a particular parcel. These Letters of Interpretation are not individually analyzed for the Commission.

The only other Letters of Interpretation pending concern the number of Pinelands Development Credits attributed to a particular parcel.

**F. Recreation Permits**

N.J.A.C. 7:50-6.143(a)4. requires that route maps for organized off-road motor vehicle events in the Pinelands Area be approved by the Executive Director.

No **off-road recreation vehicle event permits** were issued last month.

**G. Certificate of Appropriateness**

N.J.A.C. 7:50-6.156 requires that Certificates of Appropriateness be issued when a proposed development impacts on a historic site designated pursuant to N.J.A.C. 7:50-6.154 or when a proposed development impacts on a resource found to be significant pursuant to N.J.A.C. 7:50-6.155. In an uncertified municipality and for a public agency, the Commission issues the actual Certificate of Appropriateness. In a certified municipality, the Commission deems the application complete, with the municipality taking action on the Certificate of Appropriateness. That local action is subject to review by the Pinelands Commission.

One **Certificate of Appropriateness** was issued last month.

**H. Superfund Clean-ups**

The federal legislation concerning the clean-up of superfund sites precludes the issuance of local, state or federal permits when the remediation activities will be located on the contaminated site. However, the clean-up of those sites is supposed to adhere to applicable or relevant and appropriate requirements (ARARs) imposed by state law and regulations. The Comprehensive Management Plan constitutes such a requirement. The Department of Environmental Protection (DEP) has determined the appropriate way to implement these statutory requirements is to issue the equivalent of a permit for these

clean-ups. These documents inform the Environmental Protection Agency (EPA) of the state requirements that must be met in the clean-up. However, there is no right to notice or hearings concerning these actions. Any legal challenge would have to be taken to EPA's final determination. Because the Pinelands Protection Act requires that DEP actions be consistent with the requirement of the Comprehensive Management Plan, it has been determined that the Commission should also take formal action by issuing a permit equivalency to set forth the Commission requirements for the remediation. Depending on whether the remediation is by a public or private entity, a Report on an Application for Public Development, Certificate of Filing or Certificate of Compliance will be issued. In some instances Waiver of Strict Compliance will be necessary. Commission action is required on public superfund remediations and on any Waivers of Strict Compliance.

There were no staff reports on remediation of a superfund site by a public agency issued last month.

**I. Development Activities Not Requiring a Formal Application Pursuant to Memoranda of Agreement**

The Pinelands Commission has entered into several Memoranda of Agreement with other agencies. Certain of these Memoranda eliminate the need for a formal application to be submitted to the Pinelands Commission for specified development activities.

Attached is a listing of all submissions that were determined not to require a formal application to the Commission pursuant to the Memoranda in the last month.

Those applications that are listed as "MOA Comment Sent-Consistent" were determined to not require a formal application and to be consistent with the appropriate Memorandum and the provisions of the Pinelands Comprehensive Management Plan. Those applications that are listed as "MOA Comment Sent-Inconsistent" were determined to be inconsistent with either the appropriate Memorandum or the provisions of the Pinelands Comprehensive Management Plan. These proposed developments may not proceed unless either the proposed development is modified to be consistent or a formal application is submitted to the Pinelands Commission.



# ***RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION***

**NO. PC4-06-\_\_\_\_\_**

**TITLE:**     **Approving With Conditions Applications for Public Development (Application Numbers 1981-0556.042, 1981-1601.005, 1985-0087.006, 1989-1126.006, 1993-0894.002, 1994-0289.024, 1997-0658.001, 2005-0051.001, 2006-0265.001, and 2006-0304.001)**

**Commissioner \_\_\_\_\_ moves and Commissioner \_\_\_\_\_**  
**seconds the motion that:**

**WHEREAS**, the Pinelands Commission has reviewed each of the Findings of Fact, Conclusion and the recommendation of the Executive Director, that each of the following applications for public development be approved with conditions:

- |                      |   |
|----------------------|---|
| <b>1981-0556.042</b> | <b>EVESHAM TOWNSHIP MUNICIPAL UTILITIES AUTHORITY</b> , Evesham Township, Rural Development Area, improvements to the existing Kings Grant Wastewater Treatment Plant site and the replacement/relocation of an existing sanitary sewer force main                |
| <b>1981-1601.005</b> | <b>NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF REMEDIATION MANAGEMENT AND RESPONSE</b> , Southampton Township, Rural Development Area and Forest Area, installation of a groundwater extraction and collection system for an existing landfill |
| <b>1985-0087.006</b> | <b>EGG HARBOR TOWNSHIP OF EDUCATION</b> , Egg Harbor Township, Regional Growth Area, three building additions, totaling 11,402 square feet, to an existing 98,181 square foot Egg Harbor Township intermediate school and associated site improvements            |
| <b>1989-1126.006</b> | <b>TOWNSHIP OF JACKSON</b> , Jackson Township, Pinelands Village, construction of a 33,600 square foot storage building   |
| <b>1993-0894.002</b> | <b>BOROUGH OF FOLSOM</b> , Folsom Borough, Pinelands Village, realignment of the intersection of 13 <sup>th</sup> Street and Mays Landing Road  |
| <b>1994-0289.024</b> | <b>FEDERAL PRISON INDUSTRIES, INC.</b> , New Hanover Township, Military and Federal Installation, establishment of a consumer electronics recycling center  |
| <b>1997-0658.001</b> | <b>ATLANTIC COUNTY DEPARTMENT OF REGIONAL PLANNING AND DEVELOPMENT</b> , Hamilton Township, Regional Growth Area, two lot subdivision and no further development  |



**WHEREAS**, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for any of these applications; and

**WHEREAS**, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director for each of the proposed developments; and

**WHEREAS**, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval; and

**WHEREAS**, the Pinelands Commission hereby determines that each of the proposed public developments conform to the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 if the conditions recommended by the Executive Director are imposed.

**NOW, THEREFORE BE IT RESOLVED** that the following applications for public development are hereby **Approved** subject to the conditions recommended by the Executive Director.

- |                      |   |
|----------------------|---|
| <b>1981-0556.042</b> | <b>EVESHAM TOWNSHIP MUNICIPAL UTILITIES AUTHORITY</b> , Evesham Township, Rural Development Area, improvements to the existing Kings Grant Wastewater Treatment Plant site and the replacement/relocation of an existing sanitary sewer force main                |
| <b>1981-1601.005</b> | <b>NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION, DIVISION OF REMEDIATION MANAGEMENT AND RESPONSE</b> , Southampton Township, Rural Development Area and Forest Area, installation of a groundwater extraction and collection system for an existing landfill |
| <b>1985-0087.006</b> | <b>EGG HARBOR TOWNSHIP OF EDUCATION</b> , Egg Harbor Township, Regional Growth Area, three building additions, totaling 11,402 square feet, to an existing 98,181 square foot Egg Harbor Township intermediate school and associated site improvements            |
| <b>1989-1126.006</b> | <b>TOWNSHIP OF JACKSON</b> , Jackson Township, Pinelands Village, construction of a 33,600 square foot storage building   |
| <b>1993-0894.002</b> | <b>BOROUGH OF FOLSOM</b> , Folsom Borough, Pinelands Village, realignment of the intersection of 13 <sup>th</sup> Street and Mays Landing Road  |
| <b>1994-0289.024</b> | <b>FEDERAL PRISON INDUSTRIES, INC.</b> , New Hanover Township, Military and Federal Installation, establishment of a consumer electronics recycling center  |
| <b>1997-0658.001</b> | <b>ATLANTIC COUNTY DEPARTMENT OF REGIONAL PLANNING AND DEVELOPMENT</b> , Hamilton Township, Regional Growth Area, two lot subdivision and no further development  |
| <b>2005-0051.001</b> | <b>TOWNSHIP OF EGG HARBOR TOWNSHIP</b> , Egg Harbor Township, Regional Growth Area, construction of a recreational facility and associated development  |

2006-0304.001

EGG HARBOR TOWNSHIP MUNICIPAL UTILITIES AUTHORITY, Egg Harbor Township, Regional Growth Area, installation of 3,405 linear feet of gravity sanitary sewer main

Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Achmun					Hagaman					Tomasello				

**REPORT ON AN APPLICATION FOR  
PUBLIC DEVELOPMENT**

August 21, 2006

Louis Russo  
Evesham Township Municipal Utilities Authority  
P.O Box 467  
Evesham, NJ 08053

Please Always Refer To  
This Application Number

Re:    Application #1981-0556.042  
       Block 44.32, Lots 2, 3 & 4  
       Evesham Township

Dear Applicant:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for proposed improvements to the existing Kings Grant Wastewater Treatment Plant site and the replacement/relocation of an existing sanitary sewer force main on the above referenced 26.06 acre parcel. The parcel is located in a Pinelands Rural Development Area.

The application proposes various improvements to the existing wastewater treatment plant site including the relocation of an existing driveway and internal road, wastewater treatment plant equipment upgrades and replacement of a 400 square foot storage building. The applicant also proposes to remove an existing office trailer accessory to the treatment plant and develop a 2,488 square foot office/equipment building. The existing office trailer proposed to be removed is served by public sanitary sewer. The proposed office/equipment building is proposed to be served by public sanitary sewer. The proposed wastewater treatment plant improvements will not result in an increase

in the volume of wastewater treated by the facility.

The application also proposes to abandon 2,190 linear feet of an existing twelve inch sanitary sewer force main and replace/relocate the twelve inch sanitary sewer force main with 854 linear feet of an eight inch sanitary sewer force main.

The parcel has been inspected by two members of the Commission's staff. In addition, the appropriate resource capability maps and data available to the Commission staff have been reviewed.

An application for the expansion of the Kings Grant Wastewater Treatment Plant was previously completed with the Pinelands Commission (Application #1981-0556.006). The wastewater treatment plant was constructed prior to 1979. The expansion of the plant was to serve additional units in the Kings Grant development which received a Waiver of Strict Compliance from the Commission (Application #1981-0556.001).

The proposed wastewater treatment plant modifications will be located partially over existing developed areas and partially over existing grassed areas. There are wetlands located within 300 feet of the proposed development. All proposed improvements to the existing Kings Grant Wastewater Treatment Plant site will be located no closer to wetlands than existing development. Based upon this fact, the proposed development will not result in a significant adverse impact on the wetlands.

The applicant proposes to directionally drill the proposed eight inch sanitary sewer main, under freshwater wetlands, for approximately 790 linear feet. The proposed sanitary sewer main will be located between four and five feet under the freshwater wetlands. Based upon the proposed construction methods, the applicant has demonstrated that the proposed development will not result in a significant adverse impact to wetlands.

There will be no increase in the volume and stormwater run-off from the project area after development than occurred prior to the proposed development. The applicant has indicated that the proposed development will result in an approximate 31,072 square foot decrease in impervious surfaces on the parcel.

Based upon the proposed limits of disturbance, the location of the existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened or endangered species of plants and wildlife was not required.

A review of the Pinelands Commission's cultural resource inventories did not provide sufficient evidence of a significant historic or prehistoric presence to require a full cultural resource survey.

The parcel is located in Evesham Township's RD-1 and C-2 zoning districts.

With the conditions recommended below, the proposed development will be consistent with

the management standards contained in Subchapter 6 of the Pinelands Comprehensive Management Plan (CMP).

The applicant provided the requisite public notice. The Pinelands Commission has not received any public comments regarding the application.

### **CONCLUSION**

Onsite improvements to an existing wastewater treatment constructed prior to January 14, 1981 are a permitted use in a Rural Development Area in accordance with N.J.A.C. 7:50-5.2(a). Replacement of an existing sanitary sewer force main is a permitted use. If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP and Evesham Township's certified master plan and land use ordinances.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed development with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the plans, consisting of nine sheets, prepared by Richard A. Alaimo Associates and dated as follows:  
  
Sheets 1 & 2 - September 2004; revised August 17, 2006  
Sheets 3-9 - February 2006; revised August 17, 2006
2. All proposed development shall be located no closer to wetlands than existing development.
3. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
4. Landscaping shall adhere to the requirements of the CMP.
5. Prior to construction, silt fencing, hay bales or other appropriate measures shall be installed to preclude sedimentation from entering freshwater wetlands. The proposed sedimentation barrier shall be maintained in place until all development has been completed and the area stabilized.
6. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

## APPEAL

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that the service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Evesham Township Planning Board;
  - c. Evesham Township Environmental Commission; and
  - d. Secretary, Burlington County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
Charles M. Horner, P.P., Director of Regulatory Programs

RLW/ED/KY/CH

Secretary, Evesham Township Planning Board  
Evesham Township Environmental Commission  
Secretary, Burlington County Planning Board  
Richard Alaimo  
Rhonda Ward

**REPORT ON AN APPLICATION FOR  
PUBLIC DEVELOPMENT**

August 21, 2006

Edward Putnam  
New Jersey Department of Environmental Protection  
Division of Remediation Management and Response  
P.O. Box 413  
Trenton, NJ 08625

Please Always Refer To  
This Application Number

Re:    Application #: 1981-1601.005  
       BEMS/Big Hill Landfill  
       Block 2702, Lots 3-5, p/o 6, 7 & 8  
       State Route 70  
       Block 2702.12, Lot 11  
       Picardi Place  
       Southampton Township

Dear Mr. Putman:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for the installation of a groundwater extraction and collection system for an existing landfill on the above referenced 127.52 acre parcel. The parcel is partially located in a Pinelands Rural Development Area (69.52 acres) and partially in a Pinelands Forest Area (53.61 acres).

Based on information provided in a report prepared by L. Robert Kimball & Associates, dated April 2, 1999, for the State of New Jersey, Department of Environmental Protection and entitled "Groundwater Modeling Report, Environmental Impacts Report," the landfill, which is known as the Big Hill Landfill, was owned and operated by the Burlington Environmental Management Services, Inc. The landfill was used for the disposal of municipal refuse and septic sludge from the late 1960s until December of 1982. During that time, hazardous substances were also placed in the landfill. The landfill was closed and partially capped in 1983 pursuant to an order issued by the New Jersey Department of Environmental Protection (NJDEP). After closure of the landfill it was determined that run-off from the landfill and leachate had migrated off-site, creating hazardous conditions. The NJDEP directed the landfill owner to remediate the hazardous site conditions in 1985.

This application proposes to extract contaminated groundwater from the Cohansey and Upper Kirkwood aquifers using three recovery wells, located at depths of 37, 51 and 62 feet. The three wells will pump groundwater at a maximum rate of 10 gallons per minute (gpm). The extracted groundwater will be transported, via a 6 inch conduit, to a storage tank at the landfill. One recovery well and 620 linear feet of conduit will be installed in the existing LeisureTowne residential development. The remaining two recovery wells will be located adjacent to the existing landfill.

Conduit will also be installed to collect groundwater leachate from two existing leachate recovery manholes and piped to the same leachate storage tank via a 6 inch conduit. The leachate is then proposed to be trucked to the Mount Holly Municipal Utility Authority's sewage treatment plant.

This application also proposes to widen and pave an existing 2,400 linear foot gravel service road, to a width between 15 feet and 20 feet, which is located on the parcel to accommodate the additional truck traffic necessary to haul the collected leachate to the sewage treatment plant.

An application for the capping of the landfill was previously approved by the Pinelands Commission (Application #1981-1601.003) in January of 1996. Capping of the landfill was completed. An application for dredging of contaminated sediment from Canterbury Pond, located on Block 2702.14, Lot 37 was previously approved by the Pinelands Commission (App. No.1981-1601.006) on October 14, 2004.

The project area has been inspected by a member of the Commission's staff. In addition, the appropriate resource capability maps and data available to the Commission staff have been reviewed.

The stormwater drainage system is designed so that there will be no increase in the rate of runoff generated by the site from a 2 year, 10 year and 100 year storm, each of a 24 hour duration, following the proposed development that occurred prior to the proposed development. The stormwater drainage system is also designed to retain and infiltrate the volume of stormwater runoff from the net increase in impervious surfaces by a 10 year, 24 hour duration storm.

The proposed development will be located in existing disturbed areas. There are no wetlands



located within 300 feet of the proposed development.

Based on a review of information available to the Commission staff, the proposed limits of disturbance and the location of existing development, it was determined that a survey for the presence of threatened or endangered species of plants and wildlife was not required.

The Pinelands Commission's cultural resource inventories did not provide sufficient evidence of a significant historic or prehistoric presence to require a full cultural resource survey.

With the conditions recommended below, the proposed development will be consistent with all the management standards contained in Subchapter 6 of the Pinelands Comprehensive Management Plan (CMP).

The applicant has provided the requisite public notice. The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

The proposed remediation activity is a permitted use in a Rural Development Area and a Forest Area (N.J.A.C. 7:50-6.73(d)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed development with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the plans, consisting of fourteen sheets, prepared by L. Robert Kimball & Associates and dated as follows:  
  
Sheet 1 - November 2005  
Sheets 2-14- January 13, 2006
2. Landscaping shall adhere to the requirements of the CMP.
3. Disposal of any construction debris or excess fills may only occur at an appropriately licensed facility.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.
5. All leachate and contaminated materials shall be disposed at an appropriately licensed

facility.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that the service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Southampton Township Planning Board;
  - c. Southampton Township Environmental Commission; and
  - d. Secretary, Burlington County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
Charles M. Horner, P.P., Director of Regulatory Programs

DM/KY/CMH

- c: Secretary, Southampton Township Planning Board  
Southampton Township Environmental Commission  
Secretary, Burlington County Planning Board  
Donna McBride

**REPORT ON AN APPLICATION FOR  
PUBLIC DEVELOPMENT**

August 18, 2006

Kathy Bechtel  
Egg Harbor Township Board of Education  
202 Naples Avenue  
West Atlantic City, NJ 08232

Please Always Refer To  
This Application Number

Re:   Application #: 1985-0087.006  
      Block 2902, Lot 1  
      Alder Avenue  
      Egg Harbor Township

Dear Ms. Bechtel:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for three building additions, totaling 11,402 square feet, to an existing 98,181 square foot Egg Harbor Township intermediate school and associated site improvements on the above referenced 44 acre lot. The lot is located in a Pinelands Regional Growth Area.

An application for the development of the school on the above referenced lot was previously approved by the Pinelands Commission (App. No. 1988-0390.001). The parking areas and stormwater management facilities were not constructed as shown on the plan approved by the Pinelands Commission. The applicant has submitted a revised stormwater management plan and an as-built plan, showing that the concerned parking areas and stormwater management facilities were developed consistent with the standards of the Pinelands Comprehensive Management Plan (CMP).

An application for the installation of a 700 foot deep monitoring well (App. No. 1985-0087.001), the development of a 100 foot high communications antenna (App. No. 1985-0087.002), the placement of three classroom trailers, (App. No. 1985-0087.003), the placement of two modular classroom trailers (App. No. 1985-0087.004) and the placement of a modular classroom trailer, all on the above referenced lot, were previously approved by the Pinelands Commission (App. No. 1985-0087.005).

The lot has been inspected by a member of the Commission's staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.

There are wetlands on and within 300 feet of the above referenced lot. All development, including clearing and land disturbance, will be located at least 300 feet from wetlands. The proposed development is located on existing developed areas and existing grassed areas.

The storm water drainage system is designed so that there will be no increase in the rate of runoff generated by the proposed development from a 2 year, 10 year and 100 year storm, each of a 24 hour duration, following the proposed development than occurred prior to the proposed development. The stormwater drainage system is also designed to retain and infiltrate the volume of stormwater runoff from the net increase in impervious surfaces generated by a 10 year, 24 hour duration storm. The applicant will be constructing underground stormwater infiltration trenches.

Based on the proposed limits of disturbance, the location of existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened or endangered species of plants and wildlife was not required.

The school is currently serviced by public sanitary sewer.

The Pinelands Commission's cultural resource inventories did not provide sufficient evidence of a significant historic and prehistoric presence to require a full cultural resource survey.

The lot is located in Egg Harbor Township's RG-1 (Residential) zoning district. Schools are a permitted use in this zoning district.

With the conditions recommended below, the proposed development will be consistent with all the management standards contained in Subchapter 6 of the CMP.

The applicant has provided the requisite public notice. The Pinelands Commission has not received any public comments concerning the application.

## **CONCLUSION**

The proposed school additions are a permitted use in a Regional Growth Area (N.J.A.C. 7:50-5.28(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP and Egg Harbor Township's certified master plan and land use ordinances.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed development with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the plans, consisting of eight sheets, prepared by Polistina & Associates, LLC and dated as follows:

Sheet 1 - undated

Sheet 2 - April 21, 2006

Sheets 3-7 - April 26, 2006; revised July 11, 2006

Sheet 8 - April 26, 2006

2. Landscaping shall adhere to the requirements of the CMP.
3. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
4. The stormwater management system shall be inspected each fall, spring and after each major storm event. The facilities shall be cleaned and maintained as necessary to ensure proper functioning.
5. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice

has been made by Certified mail, on:

- a. the applicant (unless the applicant is requesting the appeal);
- b. Secretary, Egg Harbor Township Planning Board;
- c. Egg Harbor Township Environmental Commission; and
- d. Atlantic County Department of Regional Planning & Development.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
Charles M. Horner P.P., Director of Regulatory Programs

CMH/ED

- c: Secretary, Egg Harbor Township Planning Board  
Egg Harbor Township Environmental Commission  
Atlantic County Department of Regional Planning & Development  
Vincent Polistina  
Ernest Deman

**REPORT ON AN APPLICATION FOR  
PUBLIC DEVELOPMENT**

August 21, 2006

Daniel Burke, Township Engineer  
Township of Jackson  
95 West Veterans Highway  
Jackson, NJ 08527

Please Always Refer To  
This Application Number

Re:     Application #: 1989-1126.006  
         Block 40, Lot 37.01  
         Jackson Township

Dear Mr. Burke:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for the construction of a 33,600 square foot storage building on the above referenced 9.92 acre lot in Jackson Township. The existing Jackson Township Department of Public Works facility is located on the lot. The lot is located in the Pinelands Village of Vanhiseville.

The application also proposes the paving of an approximately 32,000 square foot area and the relocation of an existing salt storage building and an access drive.

The project area has been inspected by a member of the Commission's staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.

An application is for the construction of a 216 square foot building on the above referenced lot was previously approved by the Pinelands Commission (App. No. 1989-1126.001).

The proposed development is located within existing developed, paved and stone areas. There are no wetlands located within 300 feet of the proposed development.

The storm water drainage system is designed so that there will be no increase in the rate of runoff generated by the proposed development from a 2 year, 10 year and 100 year storm, each of a 24 hour duration, following the proposed development than occurred prior to the proposed development. The stormwater drainage system is also designed to retain and infiltrate the volume of stormwater runoff from the net increase in impervious surfaces generated by a 10 year, 24 hour duration storm. The applicant will be constructing an underground stormwater recharge trench.

The lot is serviced by public sanitary sewer.

Based on existing site conditions, the location of the proposed development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened or endangered species of plants and wildlife was not required.

The Pinelands Commission's cultural resource inventories did not provide sufficient evidence of a significant historic or prehistoric presence to require a full cultural resource survey.

With the conditions recommended below, the proposed development will be consistent with all the management standards contained in Subchapter 6 of the Pinelands Comprehensive Management Plan (CMP).

The applicant has provided public notice. The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

The proposed 33,600 square foot storage building, salt dome relocation and associated site improvements are permitted uses in a Pinelands Village (N.J.A.C. 7:50-5.27(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP and Jackson Township's certified master plan and land use ordinances.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed development with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the Stormwater Management Report for the Department of Public Works Storage Building Addition, containing five plan sheets, prepared by Remington, Vernick & Vena Engineers, all sheets dated May 2006.
2. Except as modified by the below conditions, the proposed development shall adhere to the plan, prepared by Daniel Burke, dated January 27, 2006 and revised March 16, 2006.



3. Landscaping shall adhere to the requirements of the CMP.
4. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
5. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Jackson Township Planning Board;
  - c. Jackson Township Environmental Commission; and
  - d. Ocean County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
Charles M. Horner, P.P., Director of Regulatory Programs

CMH/ED

c: Secretary, Jackson Township Planning Board  
Jackson Township Environmental Commission  
Ocean County Planning Board  
Ernest Deman

**REPORT ON AN APPLICATION FOR  
PUBLIC DEVELOPMENT**

August 18, 2006

Thomas Ballistreri, Mayor  
Borough of Folsom  
1700 12<sup>th</sup> Street  
Folsom, NJ 08037

Please Always Refer To  
This Application Number

Re: Application #: 1993-0894.002  
13<sup>th</sup> Street  
Borough of Folsom

Dear Mayor Ballistreri:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for the realignment of the intersection of 13<sup>th</sup> Street and Mays Landing Road in the Borough of Folsom. The project is located in the Pinelands Village of Folsom.

The application proposes to realign the 13<sup>th</sup> Street right-of-way, at its intersection with Mays Landing Road, approximately 70 feet to the north of the existing right-of-way. The proposed 13<sup>th</sup> Street right-of-way will be paved for a length of approximately 635 linear feet west of Mays Landing Road. The road will be paved to a width of 24 feet. The application also proposes to remove the pavement from the existing right-of-way and revegetate the area.

The project area has been inspected by a member of the Commission's staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.

The project will be located partially in a pine-oak wooded area and partially in a grassed area.

There are no wetlands within 300 feet of the proposed development.

There will be no increase in the volume and rate of stormwater runoff from the project area after development than occurred prior to the proposed development.

An application for the reconstruction and widening of 5,800 linear feet of the 4<sup>th</sup> Road and 13<sup>th</sup> Street rights-of-way from a width of 20 feet to 24 feet, including that portion of 13<sup>th</sup> Street now proposed for relocation, was previously approved by the Pinelands Commission (App. No. 1993-0894.001).

Based upon the existing site conditions, the location of the proposed development relative to existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened or endangered species of plants and wildlife was not required.

The Pinelands Commission's cultural resource inventories did not provide sufficient evidence of a significant historic or prehistoric presence to require a full cultural resource survey.

The lot is located in the Borough of Folsom VR zoning district. The proposed development will serve existing, approved and permitted uses in this zoning district.

With the conditions recommended below, the proposed development will be consistent with all the management standards contained in Subchapter 6 of the Pinelands Comprehensive Management Plan (CMP).

The applicant has provided the requisite public notice. The Pinelands Commission has received one public comment regarding the application. The commenter was concerned with the impacts to existing natural resources by the proposed road realignment.

### **CONCLUSION**

The road intersection realignment is a permitted use in a Pinelands Village (N.J.A.C. 7:50-5.27(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP and the Borough of Folsom certified master plan and land use ordinance.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed development with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the plans, consisting of five sheets, prepared by Polistina & Associates and dated as follows:

Sheet 1 - July 2006

Sheets 2-5 - December 6, 2005; revised June 27, 2006

2. Landscaping shall adhere to the requirements of the CMP.
3. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
4. Prior to any development, the applicant shall obtain any necessary permits and approvals.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Borough of Folsom Planning Board;
  3. Borough of Folsom Environmental Commission; and
  4. Atlantic County Department of Regional Planning & Development.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
Charles M. Horner, P.P., Director of Regulatory Programs

CMH/ED

c: Secretary, Borough of Folsom Planning Board  
Borough of Folsom Environmental Commission  
Atlantic County Department of Regional Planning & Development

**REPORT ON AN APPLICATION FOR  
PUBLIC DEVELOPMENT**

August 21, 2006

Lawrence Novicky  
Federal Prison Industries, Inc.  
dBA UNICOR Recycling Factory  
FCI Fort Dix  
5735 Pennsylvania Avenue  
P.O. Box 6000  
Fort Dix, NJ 08640

Please Always Refer To  
This Application Number

Re:   Application #: 1994-0289.024  
      Block 21, Lot 1  
      New Hanover Township

Dear Mr. Novicky:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for the establishment of a consumer electronics recycling center at the Federal Prison on Fort Dix on the above referenced 1812.7 acre lot in New Hanover Township. The project is located in a Military and Federal Installation Area in the Preservation Area. In accordance with the requirements of the Pinelands Comprehensive Management Plan (CMP), the proposed development will not require any development, including public service infrastructure, in the Preservation Area District or in a Forest Area.

Unprocessed electronic equipment is shipped to the recycling center by tractor trailer. The trailers are stored on-site until the material is ready to be processed. The trailers are then moved to an existing warehouse building (Building 5735). The material is then screened, separated, categorized and stored in a trailer for movement to the processing building (Building 5713). At the processing building, the material is assessed for functionality and re-use. Any material acceptable for re-use is cleaned, tested and prepared for resale. Material not suited for re-use is broken down to the commodity level. All material is loaded onto trailers, stored on-site and then shipped to consumers. No material is stored outside or on the ground.

The CMP (N.J.A.C. 7:50-6, Part VII) contains standards and requirements for waste management which apply throughout the Pinelands Area. These standards were last revised by the Pinelands Commission in 1996, in part to ensure that hazardous wastes, which were considered not to be recyclable because of the dangers they posed through contamination of the surrounding environment, not be stored, transferred, processed, discharged, disposed or otherwise used in the Pinelands Area. Subsequent to the Commission's adoptions of these revised waste management rules, the New Jersey Department of Environmental Protection (NJDEP) began to reexamine its approach to the handling of hazardous wastes. The NJDEP came to the conclusion that advances in technology relating to the processing of certain types of hazardous wastes allowed for their safe and effective recycling. The NJDEP adopted a series of rule changes that identified classes of hazardous wastes that could now be recycled and the procedures for doing so. These rules added "consumer electronics" to the category of "Class D Recyclables." Class D Recyclables include used oil, antifreeze, thermostats, lamps, oil-based finishes, batteries, mercury containing devices and consumer electronics. Consumer electronics are household and business appliances that incorporate circuitry. They include, among other things, computers, printers, stereos, VCRs, televisions and telecommunication devices. Their reclassification by the NJDEP was intended to permit a simpler and more economical means of processing their reusable components. At the same time, the NJDEP devised a pilot program to test the overall efficiency of recycling such wastes and began issuing temporary "Research, Demonstration and Development Certificates" as part of the pilot program. These Certificates authorized the recycling of specific hazardous waste materials at newly established facilities. Pursuant to its pilot program, the NJDEP granted a Certificate allowing a consumer electronics recycling center to operate at the Federal prison at Fort Dix in 1999. The recycling center in question, as well as all of Fort Dix, is located within the Pinelands Area. Consumer electronics continue to be defined as a hazardous waste in the CMP and their recycling is not permitted in any portion of the Pinelands Area pursuant to N.J.A.C. 7:50-6.73(b). However, in recognition of the NJDEP's actions, the Commission determined that it would be appropriate to allow for the continued operation of the existing recycling center to determine whether the NJDEP's decision to reclassify consumer electronics as recyclable hazardous waste is appropriate for the Pinelands Area. The Fort Dix Consumer Electronics Recycling Center Pilot Program CMP amendment was adopted by the Commission on June 6, 2005 as a means to test whether continued operation of the center, if effectively regulated and monitored, would reduce the waste stream to landfills and enhance protection of the natural resources of the Pinelands Area and its unique ecosystem.

The concerned recycling center has already been established. This application is intended to

resolve that violation of the application requirements of the CMP.

The project area has been inspected by a member of the Commission's staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.

The proposed development is located within existing buildings and in storage trailers that will be located on existing paved areas. There are no wetlands located within 300 feet of the proposed development.

There will be no increase in the volume and rate of stormwater run-off from the lot after development than occurred prior to the proposed development.

The buildings are serviced by public sanitary sewer.

Based on a review of information available to the Commission staff, existing site conditions, the proposed limits of disturbance and the location of existing development, it was determined that a survey for the presence of threatened or endangered species of plants and wildlife was not required.

The Pinelands Commission's cultural resource inventories did not provide sufficient evidence of a significant historic or prehistoric presence to require a full cultural resource survey.

With the conditions recommended below, the proposed development will be consistent with all the management standards contained in Subchapter 6 of the CMP.

The applicant has provided public notice. The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

The proposed recycling center is a permitted use in a Military and Federal Installation Area (N.J.A.C. 7:50-5.29(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed demolition with the following conditions:

1. Except as modified by the below conditions, the proposed development of shall adhere to the plans, consisting of two sheets, prepared by J.A.R. Engineering, dated August 18, 2003 and revised August 18, 2003.
2. The consumer electronics recycling center is authorized to continue the recycling of cathode ray tubes and consumer electronics until June 6, 2010, provided its operation

is otherwise consistent with the standards of the CMP, in particular Subchapter 10, Pilot Programs, Part V, Fort Dix Consumer Electronic Recycling Center Pilot Project.

3. The operators of the consumer electronics recycling center shall provide the Commission with a report on the tonnage of consumer electronics received at the facility and the tonnage of consumer electronics sent from the facility for landfill disposal on an annual basis.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, New Hanover Township Planning Board; and
  - c. Secretary, Burlington County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
Charles M. Horner, P.P., Director of Regulatory Programs

CMH/ED



**REPORT ON AN APPLICATION FOR  
PUBLIC DEVELOPMENT**

August 17, 2006

Joseph Maher  
Atlantic County Department of Regional Planning & Development  
1333 Atlantic Avenue - 8<sup>th</sup> Floor  
Atlantic City, NJ 08401

Please Always Refer To  
This Application Number

Re:     Application #: 1997-0658.001  
         Main Street & Taylor Avenue  
         Block 743, Lot 13  
         Hamilton Township

Dear Mr. Maher:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for a two lot subdivision of the above referenced 5.46 acre lot and no further development. There is an existing bank, consisting of two buildings, located on existing Lot 13. The existing bank is serviced by public sanitary sewer. The proposed subdivision will result in a 0.91 acre lot and a 4.55 acre lot. The applicant proposes to locate the bank on the proposed 0.91 acre lot. No development is proposed for the proposed 4.55 acre lot. The applicant indicates that there are no plans to develop the proposed 4.55 acre lot and that the 4.55 acre lot will remain as open space in perpetuity. The 4.55 acre lot is predominantly comprised of wetlands. The lot is located in a Pinelands Regional Growth Area.

With the conditions recommended below, the proposed development will be consistent with all the management standards contained in Subchapter 6 of the Pinelands Comprehensive Management Plan (CMP).

The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

The proposed subdivision is a permitted use in a Regional Growth Area (N.J.A.C. 7:50-5.28(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP and Hamilton Township's certified master plan and land use ordinance.

As the proposed subdivision conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed development with the following conditions:

1. Except as modified by the below condition, the proposed subdivision shall adhere to the plan prepared by Vargo Associates, dated December 28, 2004 and revised March 1, 2006.
2. Within 60 days of approval of the proposed subdivision, the applicant shall submit to the Commission a copy of a recorded deed restriction which indicates that the proposed 4.55 acre lot is predominantly wetlands, that the subdivision creating the 4.55 acre lot was expressly for open space purposes and that future development of the lot is prohibited.
3. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice

has been made by Certified mail, on:

- a. the applicant (unless the applicant is requesting the appeal);
- b. Secretary, Hamilton Township Planning Board; and
- c. Hamilton Township Environmental Commission.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
Charles M. Horner, P.P., Director of Regulatory Programs

CMH/ED

- d: Secretary, Hamilton Township Planning Board  
Hamilton Township Environmental Commission  
Atlantic County Department of Regional Planning & Development  
Ernest Deman

**REPORT ON AN APPLICATION FOR  
PUBLIC DEVELOPMENT**

August 18, 2006

Peter Miller  
Township of Egg Harbor Township  
3515 Bargaintown Road  
Egg Harbor Township, NJ 08234

Please Always Refer To  
This Application Number

Re:    Application #: 2005-0051.001  
         Block 5302, Lots 19.01 & 20.01  
         Delaware Road  
         Egg Harbor Township

Dear Mr. Miller:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for the construction of a recreational facility and associated development on the above referenced 23.76 acre parcel. The parcel is located in a Pinelands Regional Growth Area.

The recreational facility will include four tennis courts, two soccer fields, two basketball courts, a baseball field, a tot lot and four parking areas with a total of 165 parking spaces.

The parcel has been inspected by a member of the Commission's staff. In addition, the

appropriate resource capability maps and data available to the staff have been reviewed.

The project will be located in a pine-oak wooded area. There are no wetlands located within 300 feet of the proposed development.

The stormwater drainage system is designed so that there will be no increase in the rate of run-off generated by the proposed development from a 2 year, 10 year and 100 year storm, each of a 24 hour duration, following the proposed development than occurred prior to the proposed development. The stormwater drainage system is also designed to retain and infiltrate the volume of stormwater runoff from the net increase in impervious surfaces generated by a 10 year, 24 hour duration storm. The applicant proposes to construct four stormwater infiltration basins.

Based on the location of the proposed development, the location of existing development and a review of information available to the Commission staff, it was determined that a survey for the presence of threatened or endangered species of plants and wildlife was not required.

The Pinelands Commission's cultural resource inventories did not provide sufficient evidence of cultural resources to require a full cultural resource survey.

The parcel is located in Egg Harbor Township's RG-1 zoning district. Recreational facilities are permitted in this zoning district.

With the conditions recommended below, the proposed development will be consistent with all the management standards contained in Subchapter 6 of the Pinelands Comprehensive Management Plan (CMP).

The applicant has provided the requisite public notice. Three public comments regarding the application have been received by the Commission. The commentators were concerned with the impacts to existing natural resources, development buffers to existing single family dwellings and increased traffic on local roads.

### **CONCLUSION**

The proposed recreational facility is a permitted use in a Pinelands Regional Growth Area (N.J.A.C. 7:50-5.28(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP and Egg Harbor Township's certified master plan and land use ordinance.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed development with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere

to the plans, consisting of thirteen sheets, prepared by Mott Associates and dated as follows:

Sheet 1 - May 2006

Sheets 2-10, 12 & 13 - May 12, 2006

Sheet 11 - May 12, 2006; revised July 20, 2006

2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Landscaping shall adhere to the requirements of the CMP.
4. The stormwater management system shall be inspected each fall, spring and after each major storm event. The facilities shall be cleaned and maintained as necessary to ensure proper functioning.
5. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Egg Harbor Township Planning Board;
  - c. Egg Harbor Township Environmental Commission; and
  - d. Atlantic County Department of Regional Planning & Development.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal

is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
Charles M. Horner, P.P., Director of Regulatory Programs

CMH/ED

c: Secretary, Egg Harbor Township Planning Board  
Egg Harbor Township Environmental Commission  
Atlantic County Department of Regional Planning & Development  
John DeAnnuntis  
Richard Peterson  
Daniel Leech  
James Mott  
Ernest Deman

**REPORT ON AN APPLICATION FOR  
PUBLIC DEVELOPMENT**

August 18, 2006

Honorable Carl Block, Mayor  
Township of Stafford  
260 East Bay Avenue  
Manahawkin, NJ 08050-3329

Please Always Refer To  
This Application Number

Re: Application #2006-0265.001  
Block 44.33, Lot 18.01  
Sandy Circle  
Stafford Township

Dear Mayor Block:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for the installation of an eleven inch diameter potable water test well to a depth of 435 feet on the above referenced 0.35 acre lot. The lot is located in a Pinelands Regional Growth Area.

The application also proposes a four inch diameter observation well installed to a depth of 240 feet, a four inch diameter observation well installed to a depth of 435 feet and the development of a 12 foot wide, 155 linear foot stone driveway. The potable water test well will be located in the Atlantic City 800-Foot Sands Aquifer. The applicant proposes to pump the potable water test well at rates of 260 gallons per minute (gpm), 520 gpm, 770 gpm and 1040 gpm, for one hour at each pump rate. The water pumped during the pump test will be discharged along the proposed stone



driveway then into an existing municipal park.

The project will be located in an existing wooded area. There are no freshwater wetlands located within 300 feet of the proposed development.

With the conditions recommended below, the proposed development will be consistent with all of the management standards contained in Subchapter 6 of the Pinelands Comprehensive Management Plan (CMP).

The applicant has provided public notice for the construction of a municipal drinking water supply well. The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

Public service infrastructure is a permitted use in a Pinelands Regional Growth Area (N.J.A.C. 7:50-5.28(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP and the Stafford Township land use ordinance.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed development with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the plan, prepared by Schoor DePalma Engineers and Consultants, dated June 22, 2006, and last revised July 17, 2006.
2. This application is for the installation and testing of a eleven inch diameter potable water test well and two observation wells only. A separate Pinelands application must be completed for the development of a municipal drinking water supply well. The results of the potable water test well shall be submitted as part of that application.
3. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
4. Landscaping shall adhere to the requirements of the CMP.
5. Prior to any development, the applicant shall obtain any other necessary permits or approvals.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal;
4. a certificate of service, (a notarized statement), indicating that the service of notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Stafford Township Planning Board;
  - c. Stafford Township Environmental Commission; and
  - d. Secretary, Ocean County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of the date of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
Charles M. Horner, P.P., Director of Regulatory Programs

RLW/ED/KY/CH

cc: Secretary, Stafford Township Planning Board  
Stafford Township Environmental Commission  
Secretary, Ocean County Planning Board  
Christopher Olson  
Rhonda Ward

**REPORT ON AN APPLICATION FOR  
PUBLIC DEVELOPMENT**

August 17, 2006

Elaine Super  
Egg Harbor Township Municipal Utilities Authority  
3513 Bargaintown Road  
Egg Harbor Township, NJ 08234

Please Always Refer To  
This Application Number

Re:   Application #: 2006-0304.001  
      Tremont Avenue  
      Egg Harbor Township

Dear Ms. Super:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for the installation of 3,405 linear feet of gravity sanitary sewer main within the above referenced right-of-way. The project is located in a Pinelands Regional Growth Area.

The application proposes to install 1,005 linear feet of 10 inch sanitary sewer main within the Tremont Avenue right-of-way from Reega Avenue to Longfellow Road. The application also proposes to install 2,400 linear feet of 10 inch sanitary sewer main within the Tremont Avenue right-of-way from Stanley Avenue to the Black Horse Pike. The proposed sanitary sewer mains will be located under the existing paved roadway. There are no wetlands located within 300 feet of the proposed development.

The project area is located in Egg Harbor Township's HB and RG-2 zoning districts. Public

service infrastructure is permitted in these zoning districts.

With the conditions recommended below, the proposed development will be consistent with all the management standards contained in Subchapter 6 of the Pinelands Comprehensive Management Plan (CMP).

The applicant has provided the requisite public notice. The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

The proposed sanitary sewer mains are permitted uses in a Pinelands Regional Growth Area (N.J.A.C. 7:50-5.28(a)). If the following conditions are imposed, the proposed development will be consistent with the management standards contained in Subchapter 6 of the CMP and Egg Harbor Township's certified master plan and land use ordinances.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed development with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the plans, consisting of seven sheets, prepared by Polistina & Associates, LLC and dated as follows:  
  
Sheet 1 - June 2006  
Sheets 2-7 - June 6, 2006
2. Disposal of any construction debris or excess fill may only occur at an appropriately licensed facility.
3. Landscaping shall adhere to the requirements of the CMP.
4. Prior to any development, the applicant shall obtain any other necessary permits and approvals.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;

2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Egg Harbor Planning Board;
  - c. Egg Harbor Environmental Commission; and
  - d. Atlantic County Department of Regional Planning & Development.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
Charles M. Horner, P.P., Director of Regulatory Programs

CMH/ED

- c: Secretary, Egg Harbor Planning Board  
Egg Harbor Township Environmental Commission  
Atlantic County Department of Regional Planning & Development  
Vincent Polistina  
Ernest Deman



# ***RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION***

**NO. PC4-06-\_\_\_\_\_**

**TITLE:**     **Approving With Conditions an Application for a Certificate of Appropriateness (Application Number 1991-0820.063)**

**Commissioner \_\_\_\_\_ moves and Commissioner \_\_\_\_\_**  
**seconds the motion that:**

**WHEREAS**, on August 11, 2006, the Pinelands Commission approved with conditions an Amended Report on an Application for Public Development (App. No. 1991-0820.063) dated August 4, 2006 for the demolition of 2,613 dwelling units and the reconstruction of 1,650 dwelling units, construction of a 4,725 square foot office building, the demolition of a 5,250 and 2,940 square foot warehouse and the development of two, 12,000 square foot warehouses at Fort Dix and McGuire Air Force Base; and

**WHEREAS**, the proposed development plan referenced in the Amended Report on an Application for Public Development (App. No. 1991-0820.063) dated August 4, 2006 delineates "Parcels" proposed for development; and

**WHEREAS**, the August 4, 2006 Amended Report on an Application for Public Development (App. No. 1991-0820.063) indicated that "An Archaeological And Historic Resources Inventory Of McGuire Air Force Base, New Jersey," dated April 1995 indicated that two sites, one apparently within the limits of "Parcel B" and one apparently within the limits of "Parcel C," as delineated on the development plan referenced in the Amended Report on an Application for Public Development (App. No. 1991-0820.063) dated August 4, 2006, have the potential for significant archaeological remains; and

**WHEREAS**, it appears that development is proposed on or in the immediate vicinity the two sites that have the potential for significant archaeological remains; and

**WHEREAS**, within "Parcel B," the inventory identifies a sawmill site and an agricultural site; and

**WHEREAS**, within "Parcel C," the inventory identifies the possibility of a farmstead occupied between 1849 and 1917; and

**WHEREAS**, the inventory indicates that these sites should "be protected from any ground-disturbing activities until further archaeological testing is completed to fully evaluate their potential for New Jersey Pinelands Commission designations or for inclusion in the National Register;" and

**WHEREAS**, the applicant has submitted the results of a Phase II cultural resource survey, including archeological testing, for the concerned areas; and

**WHEREAS**, that survey has identified significant cultural resources within Parcels B & C which are eligible

**WHEREAS**, the Pinelands Commission has reviewed the Findings of Fact, Conclusion and the recommendation of the Executive Director, that the following application for a Certificate of Appropriateness be approved with conditions:

**1991-0820.063            United Communities**, New Hanover Township, North Hanover Township and Pemberton Township, (Military Installation Area), Preservation Area and Forest Area

**WHEREAS**, no request for a hearing before the Office of Administrative Law concerning the Executive Director’s recommendation has been received; and

**WHEREAS**, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director; and

**WHEREAS**, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval; and

**WHEREAS**, the Pinelands Commission hereby determines that the proposed Certificate of Appropriateness conforms to the standards for approving an application for a Certificate of Appropriateness set forth in N.J.A.C. 7:50-6.156(c) if the conditions recommended by the Executive Director are imposed.

**NOW, THEREFORE BE IT RESOLVED** that the following application for a Certificate of Appropriateness is hereby **Approved** subject to the conditions recommended by the Executive Director:

**1991-0820.063            United Communities**, New Hanover Township, North Hanover Township and Pemberton Township, (Military Installation Area), Preservation Area and Forest Area

**Record of Commission Votes**

AYE				NAY				NP				ABS			
Achmun															
				Hagaman											

## **CERTIFICATE OF APPROPRIATENESS**

August 18, 2006

Richard Haydinger, Jr.  
United Communities  
On Behalf of the United States Air  
Force and the United States Army  
78 Main Street  
Marlboro, NJ 08053

Please Always Refer To  
This Application Number

Re:    Application # 1991-0820.063  
       Block 15, Lot 1  
       Block 16, Lot 1  
       Block 17, Lot 1  
       Block 20, Lot 1  
       New Hanover Township  
       Block 601, Lot 6  
       Block 802, Lot 2  
       Block 803, Lot 1  
       North Hanover Township  
       Block 943, Lot 1  
       Pemberton Township

Dear Mr. Haydinger:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Certificate of Appropriateness, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the Certificate of Appropriateness at its September 8, 2006 meeting.

### **FINDINGS OF FACT**

On August 11, 2006, the Commission approved an application for the demolition of 2,613 dwelling units, the reconstruction of 1,650 dwelling units, the construction of a 4,725 square foot office building, the demolition of a 5,250 and 2,940 square foot warehouse and the development of

**\* 19910820. 063 \***



two, 12,000 square foot warehouses on the above referenced 8,324 acre parcel in New Hanover Township, North Hanover Township and Pemberton Township (App. No. 1991-0820.063).

The previously approved development application proposes development in nine areas identified as Parcels A through H and K. The Parcels are identified on a plan, consisting of eight sheets, prepared by Taylor, Wiseman & Taylor, all sheets undated and revised June 29, 2006.

“An Archaeological And Historic Resources Inventory Of McGuire Air Force Base, New Jersey,” dated April 1995, was previously submitted to the Pinelands Commission. This inventory and evaluation of archeological and historic resources indicated that two sites, one on or in the immediate vicinity of the limits of Parcel B and one on or in the immediate vicinity of Parcel C, have the potential for significant archaeological remains. On or in the immediate vicinity of Parcel B, the inventory and evaluation identified a house site occupied in the early to mid 19<sup>th</sup> century in association with a mill and agricultural activities. On or in the immediate vicinity of Parcel C, the inventory and evaluation identified the remains of several structures associated with a farmstead occupied between 1849 and 1917. The inventory and evaluation further indicated that these sites should “be protected from any ground-disturbing activities until further archaeological testing is completed to fully evaluate their potential for New Jersey Pinelands Commission designations or for inclusion in the National Register.”

The applicant submitted a report entitled Phase II "Site Testing" of Four Historic Sites McGuire Air Force Base Burlington County, New Jersey, dated April 1996. That report included archeological testing of the concerned areas and delineations of the sites on Parcels B and C. That survey evaluated the cultural resources within Parcels B and C and concluded that they are likely to yield significant information regarding the history of the Pinelands, and thus would qualify for Pinelands Designation under N. J. A. C. 7:50-6.154(b)1.iv. The Commission staff concurs that the concerned areas are eligible for Pinelands Designation and that a Certificate of Appropriateness is required.

### **CONCLUSION**

The Pinelands Comprehensive Management Plan (N.J.A.C. 7:50-6.156(a)4) requires that the Commission issue a Certificate of Appropriateness before the proposed development may occur. This Certificate of Appropriateness identifies the treatment that will be required for the resource from among three alternatives:

- preservation in place, if possible;
- preservation at another location, if preservation in place is not possible; or
- recordation, if neither preservation in place nor at another location is possible.

Preservation in place is the preferred alternative. For those cultural resources located within Parcel B there is some likelihood that construction related activities associated with the proposed development may affect those cultural resources in a way that is inconsistent with their preservation in place. To ensure the continued preservation in place of those cultural resources on Parcel B, protective fencing shall be erected prior to construction commencing on Parcel B. The fencing shall be located at least 50 feet from the boundary of the identified site as delineated in the above cited Phase II survey. The construction fencing shall be removed after completion of development and the site shall remain in its current natural state to facilitate its' continued preservation in place.

The cultural resources on Parcel C will be negatively affected by the proposed development. The removal of existing asphalt and concrete pads, existing utilities, proposed grading and construction activities on Parcel C may negatively affect those cultural resources in a way that is inconsistent with their preservation in place. A plan for the preservation in place of the cultural resources on Parcel C shall be submitted to the Commission staff. The Plan shall be approved by the Commission staff and implemented before any development occurs on Parcel C.

It is recommended that the Pinelands Commission approve the Certificate of Appropriateness requiring preservation of the significant cultural resources in place with the conditions recommended below.

As the proposed development conforms to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the Certificate of Appropriateness with the following conditions:

1. Prior to any development on Parcel B protective fencing shall be erected to ensure the continued preservation in place of those cultural resources on Parcel B. The fencing shall be located at least 50 feet from the boundary of the identified site as delineated in the above Phase II survey. The fencing shall be erected and maintained prior to and during construction related activities on Parcel B. The site is to remain in its current natural state and the fencing shall be removed at the completion of the development. To ensure preservation of the cultural resources in place, no markers or other indications of the presence of an archaeological site on Parcel B shall be erected on the site or placed on any plan available for review by the general public.
2. Prior to any development on Parcel C, a plan for the preservation in place of the cultural resources on Parcel C shall be submitted to the Commission staff. The plan shall be approved by the Commission staff and implemented by the applicant prior to any development on Parcel C.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving

notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, New Hanover Township Planning Board;
  - c. Secretary, North Hanover Township Planning Board;
  - d. Secretary, Pemberton Township Planning Board;
  - e. Pemberton Township Environmental Commission; and
  - f. Secretary, Burlington County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: \_\_\_\_\_  
 Charles M. Horner, P.P., Director of Regulatory Programs

CMH/ED

- c: Secretary, New Hanover Township Planning Board  
 Secretary, North Hanover Township Planning Board  
 Secretary, Pemberton Township Planning Board  
 Pemberton Township Environmental Commission  
 Secretary, Burlington County Planning Board  
 David Roth  
 Ernest Deman



# ***RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION***

**NO. PC4-06-\_\_\_\_\_**

**TITLE: RESOLUTION Approving With Conditions an Application for a Waiver of Strict Compliance  
(Application Number 1981-0098.001)**

**Commissioner \_\_\_\_\_ moves and Commissioner \_\_\_\_\_  
seconds the motion that:**

**WHEREAS**, the Pinelands Commission has reviewed the Findings of Fact, Conclusion and the recommendation of the Executive Director, that the following application for a Waiver of Strict Compliance be approved with conditions:

**1981-0098.001 HARRY ROBERTS**, Washington Township, 1.83 acre lot, single family dwelling,  
Pinelands Village

**WHEREAS**, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received; and

**WHEREAS**, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director; and

**WHEREAS**, pursuant to N.J.S.A. 13A-5h no action authorized by the Commission shall have force or effect until then (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval; and

**WHEREAS**, the Pinelands Commission hereby determines that the requested Waiver conforms to the standards for approving an application for a Waiver of Strict Compliance based on extraordinary hardship as set forth in N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63 and N.J.A.C. 7:50-4.65 if the conditions recommended by the Executive Director are imposed.

**NOW, THEREFORE BE IT RESOLVED** that the following application for a Waiver of Strict Compliance is hereby **approved** subject to the conditions recommended by the Executive Director:

1981-0098.001

HARRY ROBERTS, Washington Township, 1.83 acre lot, single family dwelling,  
Pinelands Village

Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun					Hagaman					Tomasello				
Brown					Lee					Witt				

**REPORT ON AN APPLICATION FOR A  
WAIVER OF STRICT COMPLIANCE**

August 18, 2006

Harry Roberts  
47 Robin Lane  
Barnegat, NJ 08005

Please Always Refer To  
This Application Number

Re:     Application # 1981-0098.001  
          Block 51, Lot 2  
          Washington Township

Dear: Mr. Roberts:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission approve the application with conditions at its September 8, 2006 meeting.

**FINDINGS OF FACT**

This application is for the development of one single family dwelling served by an onsite septic system on the above referenced 1.83 acre (79,715 square foot) lot in Washington Township. The lot is located in the Pinelands Village of Green Bank and in Washington Township's PBNB zoning district. In this zoning district, Washington Township's certified land use ordinances establish a minimum lot size of 1.0 acre for a single family dwelling that is served by an alternate design onsite septic system.

The lot has been inspected by five members of the Commission's staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.

The Burlington County Soils Survey indicates that there are Lakewood and Lakehurst soils on the lot. The Lakehurst soils have a seasonal high water table of less than 5 feet below the natural ground surface. A total of two soil borings previously performed by the Commission staff indicated a seasonal high water table of less than 5 feet below the natural ground surface at the location of the borings. A previous applicant on this lot submitted a soil boring which determined the seasonal high water table was 4.5 feet. Soil borings submitted by the current applicant determined the seasonal high water was over 5 feet. Based upon a Commission staff site inspection on May 26, 2006, the seasonal high water table on the lot is less than 5 feet. Since available information indicates that the seasonal high water table on the entire lot is less than 5 feet below the natural ground surface, the applicant is requesting a Waiver of Strict Compliance from the seasonal high water table requirement contained in N.J.A.C. 7:50-6.84(a)4iv.

There are three separate wetland areas located within 300 feet of the lot. The buffers to these three different wetland areas extend onto the lot. An Atlantic white cedar swamp as defined in N.J.A.C. 7:50-6.5(a)1 is located across Green Bank-Batsto Road from the lot. Two hardwood swamp wetlands as defined in N.J.A.C. 7:50-6.5(a) 2 are located on adjacent Lot 8 and also across County Route 542 from the lot. These three wetland areas are not impaired wetlands. Any development of the lot would be located within 300 feet of these freshwater wetlands. The applicant has submitted no information to demonstrate that the proposed development would not cause a significant adverse impact on the freshwater wetlands. Based on the quality and location of the freshwater wetlands, the proposed development will cause a significant adverse impact on wetlands. The applicant has demonstrated that no development will be located on wetlands. As there will be a significant adverse impact on freshwater wetlands located within 300 feet of the proposed development, the applicant is requesting a Waiver from the buffer to wetlands requirement contained in N.J.A.C. 7:50-6.14.

Only if the lot is developed in accordance with the conditions recommended below will the adverse impacts on water quality and wetlands be minimized.

The applicant proposes to locate the proposed development close to Green Bank-Batsto Road adjacent to the location on the lot where the depth to seasonal high water table is greatest and the proposed development can maintain the maximum feasible buffer to wetlands.

The lot includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling will be the sole principle use of the lot.

The applicant has provided the requisite public notice. The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

N.J.A.C. 7:50-4.62 sets forth the standards which must be met before a Waiver can be approved. N.J.A.C. 7:50-4.62(a) requires that for an application to be approved based on

extraordinary hardship that the applicant must demonstrate that the conditions of either N.J.A.C. 7:50-4.63(a) or (b) have been met.

N.J.A.C. 7:50-4.63(a) sets forth 5 conditions which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified categories of development is as follows:

N.J.A.C. 7:50-4.63(a)1.v: A single family dwelling on a parcel within a Regional Growth Area, Pinelands Town or Pinelands Village which is at least 20,000 square feet, excluding road rights of way, in size and is not served by a centralized wastewater treatment system.

This application is only for a Waiver from the seasonal high water table and buffer to wetlands standards of the CMP. The lot is located in a Pinelands Village. The applicant is seeking to develop a single family dwelling using an onsite septic system on a 1.83 acre (79,715 square foot lot). As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1.v.

The second condition is that the lot includes all contiguous land in common ownership on or after January 14, 1981, including all lands which are contiguous as a result of ownership of other contiguous lands. Since the lot includes all such contiguous land, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)2.

The third condition is that the proposed use will be the sole principal use on the entire contiguous parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c). As the proposed single family dwelling will be the sole principal use on the lot, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)3.

The fourth condition is that all necessary municipal lot area and density variances have been obtained if the lot is located in a municipality whose master plan and land use ordinances have been certified by the Pinelands Commission. Washington Township's master plan and land use ordinances have been certified by the Pinelands Commission. The certified ordinances do not require any municipal lot area or density variances. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

The fifth condition is that the development of the lot will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver which permits a lot to be developed unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP and will not result in a substantial impairment of the resources of the Pinelands Area. N.J.A.C. 7:50-4.65(b) sets forth the circumstances which do not comply with N.J.A.C. 7:50-4.65(a). Based on available information and



with the appropriate conditions, the proposed development will not violate any of the circumstances contained in N.J.A.C. 7:50-4.65(b) as required by N.J.A.C. 7:50-4.63(a)5.

Since the applicant meets all the conditions set forth in N.J.A.C. 7:50-4.63(a), the applicant has demonstrated that an extraordinary hardship exists pursuant to that subsection.

N.J.A.C. 7:50-4.62(d)1iii requires the acquisition and redemption of 0.25 Pinelands Development Credits (PDCs) whenever a Waiver provides relief from one or more of the standards in N.J.A.C. 7:50-6. As the applicant is obtaining a Waiver from the seasonal high water table requirement contained in N.J.A.C. 7:50-6.84(a)4iv and from the buffer to wetlands requirement contained in N.J.A.C. 7:50-6.14, a condition is included to require the applicant to purchase the requisite 0.25 PDCs.

To meet the requirements of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63(a) and N.J.A.C. 7:50-4.65, the Pinelands Commission staff has determined that the lot must be developed in accordance with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the plot plan prepared by South Jersey Engineers, dated April 11, 2006 and last revised July 21, 2006.
2. All development, including clearing and land disturbance, shall maintain the maximum feasible buffer to all freshwater wetlands as shown on the above referenced plan. No development, including clearing and land disturbance, is permitted outside the limits of disturbance depicted on the above referenced plan.
3. Silt fencing, hay bales or other appropriate measures shall be installed prior to construction to preclude sedimentation from entering freshwater wetlands.
4. Sufficient dry wells or comparable alternative shall be installed to contain all stormwater runoff from the dwelling.
5. The proposed driveway shall be constructed of crushed stone or other permeable material.
6. The septic system shall be located in an area where the seasonal high water table is at least 2 feet below the natural ground surface. Sufficient fill shall be placed in the area of the septic system to meet the requirements of Chapter 9A.
7. The house shall use an alternate design wastewater system designed so that the average nitrogen concentration in the groundwater at the limits of the lot does not exceed 2 ppm. The CMP identifies five specific alternate design systems that may be used in the Pinelands Area on lots smaller than 3.2 acres and specifies the conditions for their use. Four of the systems are authorized for use on lots containing at least one acre, the other system is

authorized for use on lots containing at least 1.5 acres.

8. Except as provided in N.J.A.C. 7:50-5.1(c), the single family dwelling approved herein shall be the sole principal use of the lot.
9. Prior to the receipt of any municipal or county approvals or permits, proof of acquisition and redemption of the requisite 0.25 PDCs must be submitted to the Pinelands Commission.
10. This Waiver shall expire September 8, 2011 unless all necessary construction permits have been issued by that date. The Waiver shall also expire if any construction permit is allowed to expire or lapse after September 8, 2011 or if any renewal or extension of any permit or approval or issuance of a new construction permit is necessary after that date.
11. A copy of a recorded deed containing all of the above conditions shall be submitted to the Pinelands Commission prior to completing an application for development. The deed shall specify that the conditions are being imposed pursuant to a Waiver of Strict Compliance referring to the application number. The deed shall state that the conditions are enforceable by the Pinelands Commission, the Burlington County Health Department, Washington Township and any other party of interest.

With the above conditions, the applicant qualifies for a Waiver of Strict Compliance from the requirements of N.J.A.C. 7:50-6.84(a)4v and N.J.A.C. 7:50-6.14.

Since the applicant meets the provisions of N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63(a) and N.J.A.C. 7:50-4.65 for the development of one single family dwelling on the lot, it is recommended that the Pinelands Commission APPROVE the requested Waiver of Strict Compliance subject to the above conditions.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The request to appeal the decision must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:

- A. the applicant (unless the applicant is requesting the appeal);
- B. Secretary, Washington Township Planning Board;
- C. Washington Township Environmental Commission;

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on August 11, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval By: \_\_\_\_\_  
Charles M. Horner, P.P.  
Director of Regulatory Programs

JM/KC/CMH

c: Secretary, Washington Township Planning Board  
Washington Township Construction Code Official  
Washington Township Environmental Commission  
Burlington County Health Department  
Executive Director, PDC Bank  
South Jersey Engineers  
Betsy Piner  
Jean Montgomerie



# ***RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION***

**NO. PC4-06-\_\_\_\_\_**

**TITLE: Denying Applications for Waivers of Strict Compliance (Application Numbers 2005-0312.001, 2005-0315.001, 2005-0316.001, 2005-0535.001)**

**Commissioner \_\_\_\_\_ moves and Commissioner \_\_\_\_\_**  
**seconds the motion that:**

**WHEREAS**, the Pinelands Commission has reviewed each of the Findings of Fact, Conclusion and the recommendation of the Executive Director, that the following applications for Waivers of Strict Compliance be denied:

- |                      |  |
|----------------------|--|
| <b>2005-0312.001</b> | <b>SU CHA BRENNAN</b> , Pemberton Township, 8,000 square foot parcel, single family dwelling, Regional Growth Area           |
| <b>2005-0315.001</b> | <b>SU CHA BRENNAN</b> , Pemberton Township 1.56 acre parcel, single family dwelling, Regional Growth Area                    |
| <b>2005-0316.001</b> | <b>SU CHA BRENNAN</b> , Pemberton Township, 10,000 square foot parcel, single family dwelling, Regional Growth Area          |
| <b>2005-0535.001</b> | <b>FRANK &amp; HELENE RUSS</b> , Pemberton Township, 16,000 square foot parcel, single family dwelling, Regional Growth Area |

**WHEREAS**, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received for any of these applications; and

**WHEREAS**, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director for each of the requested Waivers of Strict Compliance; and

**WHEREAS**, pursuant to N.J.S.A. 13A-5h no action authorized by the Commission shall have force or effect until then (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval; and

**WHEREAS**, the Pinelands Commission hereby determines that each of the requested Waivers do not conform to the standards for approving an application for a Waiver of Strict Compliance set forth in N.J.A.C. 7:50-4.62, N.J.A.C. 7:50-4.63 and N.J.A.C. 7:50-4.65.

**NOW, THEREFORE BE IT RESOLVED** that the following applications for Waivers of Strict Compliance are hereby **denied**:

- |                      |  |
|----------------------|--|
| <b>2005-0312.001</b> | <b>SU CHA BRENNAN</b> , Pemberton Township, 8,000 square foot parcel, single family dwelling, Regional Growth Area |
| <b>2005-0315.001</b> | <b>SU CHA BRENNAN</b> , Pemberton Township 1.56 acre parcel, single family dwelling,                               |

2005-0535.001

FRANK & HELENE RUSS, Pemberton Township, 16,000 square foot parcel,  
single family dwelling, Regional Growth Area

Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun					Hagaman					Tomasello				
Brown					Lee					Witt				

**REPORT ON AN APPLICATION FOR A  
WAIVER OF STRICT COMPLIANCE**

August 18, 2006

Su Cha Brennan  
PO Box 619  
Browns Mills NJ 08015

Please Always Refer To  
This Application Number

Re:   Application # 2005-0312.001  
      Block 10, Lots 47-50  
      Pemberton Township

Dear Ms. Brennan:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission deny the application at its September 8, 2006 meeting. If the Pinelands Commission denies this application, the State of New Jersey may purchase this parcel under the Limited Practical Use Program. We will send you that application form and additional information concerning the LPU Program if the Commission denies the Waiver application.

**FINDINGS OF FACT**

This application is for the development of one single family dwelling, served by an onsite septic system, on the above referenced 8,000 square foot (0.18 acre) parcel in Pemberton Township. Road improvement would be required to access the parcel. The parcel is located in Pemberton's R-80 zoning district within a Pinelands Regional Growth Area. Pemberton Township has established a minimum lot size requirement in this portion of the Pinelands Regional Growth Area as one dwelling unit per 40,000 square feet when utilizing an alternate design onsite septic system. As the proposed development is not consistent with the minimum lot size requirements in a Pinelands

Regional Growth Area when an onsite septic system is utilized, the applicant is requesting a Waiver of Strict Compliance from the restrictions on residential development contained in N.J.A.C. 7:50-5.28 (b).

As no known onsite sewage disposal system will result in an average concentration of nitrate-nitrogen in the groundwater at the property line of a parcel of this size of no more than 2 ppm, the applicant is also requesting a Waiver of Strict Compliance from the water quality requirements contained in N.J.A.C. 7:50-6.84(a)5iv.

The parcel has been site inspected by a member of the Commission's staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.

The Burlington County Soils Survey indicates that there are Alluvial and Evesboro soils on this parcel. Alluvial soils have a seasonal high water table of less than 5 feet below the natural ground surface. Evesboro soils typically have a seasonal high water table greater than 5 feet below the natural ground surface. A soil boring performed by Commission staff on the parcel indicated a seasonal high water table of less than 5 feet below the natural ground surface on the parcel. The applicant has submitted no information to demonstrate that the septic system could be located in an area where the seasonal high water table is at least 5 feet below the natural ground surface. The applicant has submitted no information to demonstrate that the seasonal high water table at the proposed location of the septic system is at least 2 feet below the natural ground surface. Since the available information indicates the seasonal high water table on the entire parcel is less than 5 feet below the natural ground surface, the applicant is requesting a Waiver of Strict Compliance from the seasonal high water table requirement contained in N.J.A.C. 7:50-6.84(a)5vi.

A portion of the parcel is a hardwood swamp as defined in N.J.A.C. 7:50-6.5(a)2 which continues onto adjacent properties. These wetlands are not impaired wetlands. Any development of the parcel would be located within 300 feet of these freshwater wetlands. The applicant has submitted no information to demonstrate that the proposed development would not cause a significant adverse impact on the freshwater wetlands. Based on the quality and location of the freshwater wetlands, the proposed development will cause a significant adverse impact on the wetlands. As the proposed development will cause a significant adverse impact on adjoining freshwater wetlands the applicant is requesting a Waiver of Strict Compliance from the wetlands protection requirements contained in N.J.A.C. 7:50-6.14.

There is vacant land bordering the parcel. The applicant has not demonstrated that this vacant land is not available for its fair market value. No information has been submitted to demonstrate that some or all of the parcel could not be sold to the owners of contiguous parcels, to a governmental agency or to a non-profit conservation group for its fair market value. No information has been submitted concerning the value of any use or development of the parcel that is authorized by the Pinelands Comprehensive Management Plan (CMP).

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling could be the sole principal use of the entire contiguous parcel. The development of a single family dwelling on the parcel requires a lot area or density variance pursuant to Pemberton Township's certified land use ordinances. No such variance has been obtained.

There is vacant land contiguous with the parcel. The applicant has submitted no information to demonstrate that the parcel is incapable of having a beneficial use if utilized as authorized by the provisions of the CMP. The applicant has submitted no information to demonstrate that any inability of the parcel to have a beneficial use results from unique circumstances peculiar to the parcel which do not affect other property in the immediate vicinity. The applicant has also not submitted information to demonstrate that any inability to have a beneficial use arises out of the characteristics of the parcel rather than the personal circumstances of the applicant or the actions and inactions of the owner or any predecessor in title.

The applicant has provided the requisite public notice. The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

N.J.A.C. 7:50-4.62 sets forth the standards which must be met before a Waiver can be approved. N.J.A.C. 7:50-4.62(a) requires that for an application to be approved based on extraordinary hardship that the applicant must demonstrate that the conditions of either N.J.A.C. 7:50-4.63(a) or (b) have been met.

N.J.A.C. 7:50-4.63(a) sets forth 5 conditions which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. The development of a single family dwelling served by an onsite septic system on a parcel of less than 20,000 square feet in a Regional Growth Area is not one of the specified categories of development. The applicant does not meet the criteria contained in N.J.A.C. 7:50-4.63(a)1.

The second condition is that the parcel includes all contiguous land in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. Since the parcel includes all such contiguous lands, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)2.

The third condition is that the proposed use will be the sole principal use on the entire contiguous parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c). As the proposed single family dwelling could be the sole principal use on the parcel, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)3.



The fourth condition is that all necessary municipal lot area and density variances have been obtained if the parcel is located in a municipality whose master plan and land use ordinances have been certified by the Pinelands Commission. Pemberton Township's master plan and land use ordinances have been certified by the Pinelands Commission. The certified ordinances require a municipal lot area or density variance. No such variance has been obtained. As a result, the applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

The fifth condition is that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). N.J.A.C. 7:50-4.65(b) sets forth the circumstances which do not comply with N.J.A.C. 7:50-4.65(a). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver of Strict Compliance which permits a parcel to be developed unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP. N.J.A.C. 7:50-4.65(b) provides that the following circumstances will result in substantial impairment of the resources of the Pinelands Area and do not comply with N.J.A.C. 7:50-4.65(a):

N.J.A.C. 7:50-4.65(b) 3. Any residential use to be served by an on-site sewage disposal system where the overall density is greater than one dwelling unit per 20,000 square feet, excluding road rights of way, or where any dwelling will be located on a lot smaller than 20,000 square feet, excluding road rights of way.

The proposed development of a single family dwelling with an onsite sewage disposal system on an 8,000 square foot (0.18 acre) parcel will violate N.J.A.C. 7:50-4.65(b)3. The applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(a)5.

As the applicant does not meet all the requirements set forth in N.J.A.C. 7:50-4.63(a), the applicant does not qualify for a Waiver of Strict Compliance pursuant to that subsection.

N.J.A.C. 7:50-4.63(b) sets forth 4 conditions each of which must be met for an applicant to qualify for a Waiver of Strict Compliance based on extraordinary hardship pursuant to that subsection.

The first condition is that the parcel includes all contiguous lands in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. As concluded above, the parcel includes all contiguous lands that were in common ownership on or after January 14, 1981. The applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(b)1.

The second condition is that the parcel includes all contiguous land with no substantial improvements which is available for purchase at fair market value, including lands which are contiguous as a result of the acquisition of other contiguous lands. There is vacant land bordering the parcel. The applicant has not demonstrated that the vacant land is not available for purchase at its fair market value. The applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(b)2.

The third condition is that the parcel, including all contiguous lands which are available pursuant to N.J.A.C. 7:50-4.63(b)1 and 2, may not have a beneficial use considering five enumerated factors.

The first factor to be considered is the value of any existing development or use of the overall parcel, including any allocation of Pinelands Development Credits. There are no Pinelands Development Credits assigned to lands in a Regional Growth Area. The overall parcel is vacant and the applicant has not established any use on the parcel.

The second factor to be considered is the value of any use or development of the overall parcel that is authorized by the provisions of the CMP. The applicant has submitted no information concerning the value of any use or development of the overall parcel, including vacant contiguous lands that are potentially available, that is authorized by the provisions of the CMP.

The third factor to be considered is the ability of the property owner to sell the parcel to the owner of a contiguous parcel, any governmental agency or to a non-profit conservation group for its fair market value. The applicant has submitted no information to demonstrate that the parcel cannot be sold for its fair market value.

The fourth factor is the ability of the property owner to either buy non-contiguous land or to sell the parcel to a non-contiguous property owner under a transfer of residential density provision contained in a certified municipal land use ordinance or pursuant to N.J.A.C. 7:50-5.30. As this parcel is located in a Regional Growth Area, the provisions of N.J.A.C. 7:50-5.30 do not apply. There is no transfer of residential density provision in Pemberton Township's certified land use ordinances which applies to this parcel.

Based on these factors, the overall contiguous parcel, including lands which are potentially available, has a beneficial use.

The fifth factor to be considered is whether any inability to have a beneficial use relates to or arises out of the characteristics of the parcel and results from unique circumstances peculiar to the parcel which are not the result of any personal situation of the applicant and are not the result of any action or inactions by the applicant or any predecessor in title. The minimum lot size, water quality and wetlands protection requirements of the CMP apply to all other vacant property in the area. Any hardship which does exist is a result of the applicant's personal circumstances and her actions and inactions.

Based on these factors, the applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(b)3.

The fourth condition is that the proposed development will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). As concluded above, a single family dwelling cannot be developed on the parcel without violating N.J.A.C. 7:50-4.65(b)3. As a result, the applicant does not meet the criteria contained in N.J.A.C. 7:50-4.63(b)4.

As the applicant does not meet all the requirements for demonstrating extraordinary hardship contained in N.J.A.C. 7:50-4.63(b), the applicant does not qualify for a Waiver of Strict Compliance pursuant to that provision.

As N.J.A.C. 7:50-4.63(a) and (b) are the exclusive means of establishing extraordinary hardship, the applicant does not qualify for a Waiver of Strict Compliance.

As a result, it is recommended that the Pinelands Commission DENY the requested Waiver of Strict Compliance.

### **APPEAL**

Any interested person may appeal the Executive Director's determination to the Commission. The request to appeal the decision must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Pemberton Township Planning Board;
  - c. Pemberton Township Environmental Commission;

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the

determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Denial: \_\_\_\_\_  
Charles M. Horner, P.P.  
Director, Regulatory Programs

AF/KC

c: Secretary, Pemberton Township Planning Board  
Pemberton Township Environmental Commission  
April Fijalkowski  
Betsy Piner

**REPORT ON AN APPLICATION FOR A  
WAIVER OF STRICT COMPLIANCE**

August 18, 2006

Su Cha Brennan  
PO Box 619  
Browns Mills NJ 08015

Please Always Refer To  
This Application Number

Re: Application # 2005-0315.001  
Block 463, Lots 39-72  
Pemberton Township

Dear Ms. Brennan:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission deny the application at its September 8, 2006 meeting. If the Pinelands Commission denies this application, the State of New Jersey may purchase this parcel under the Limited Practical Use Program. We will send you that application form and additional information concerning the LPU Program if the Commission denies the Waiver application.

**FINDINGS OF FACT**

This application is for the development of a single family dwelling, served by public sanitary sewer, on the above 1.56 acre parcel in Pemberton Township. Road improvements would be required to access the parcel. The parcel is located in Pemberton's R-80 zoning district within a Pinelands Regional Growth Area. Pemberton Township has established the minimum lot size requirement in this portion of the Regional Growth Area as one dwelling unit per 8,000 square feet when public sanitary sewer is available. The single family dwelling would be served by public sanitary sewer.

The parcel has been site inspected by one member of the Commission's staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.

The parcel is predominantly a hardwood swamp as defined in N.J.A.C. 7:50-6.5(a)2 which continues onto adjacent properties. These wetlands are not impaired wetlands. The proposed development will be located on freshwater wetlands. Any development of the parcel would also be located within 300 feet of adjoining freshwater wetlands. The applicant has submitted no information to demonstrate that the proposed development would not cause a significant adverse impact on the freshwater wetlands. Based on the quality and location of the freshwater wetlands, the proposed development will cause a significant adverse impact on the wetlands. As the proposed development will be located on wetlands and will cause a significant adverse impact on adjoining freshwater wetlands the applicant is requesting a Waiver of Strict Compliance from the wetlands protection requirements contained in N.J.A.C. 7:50-6.6 and N.J.A.C. 7:50-6.14.

There is vacant land bordering the parcel. The applicant has not demonstrated that this vacant land is not available for its fair market value. No information has been submitted to demonstrate that some or all of the parcel could not be sold to the owners of contiguous parcels, to a governmental agency or to a non-profit conservation group for its fair market value. No information has been submitted concerning the value of any use or development of the parcel that is authorized by the Pinelands Comprehensive Management Plan (CMP).

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling could be the sole principal use of the entire contiguous parcel. The development of a single family dwelling on the parcel will not require any lot area or density variances pursuant to Pemberton Township's certified land use ordinances.

There is vacant land contiguous with the parcel. The applicant has submitted no information to demonstrate that the parcel is incapable of having a beneficial use if utilized as authorized by the provisions of the CMP. The applicant has submitted no information to demonstrate that any inability of the parcel to have a beneficial use results from unique circumstances peculiar to the parcel which do not affect other property in the immediate vicinity. The applicant has also not submitted information to demonstrate that any inability to have a beneficial use arises out of the characteristics of the parcel rather than the personal circumstances of the applicant or the actions and inactions of the owner or any predecessor in title.

The applicant has provided the requisite public notice. The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

N.J.A.C. 7:50-4.62 sets forth the standards which must be met before a Waiver can be approved. N.J.A.C. 7:50-4.62(a) requires that for an application to be approved based on

extraordinary hardship that the applicant must demonstrate that the conditions of either N.J.A.C. 7:50-4.63(a) or (b) have been met.

N.J.A.C. 7:50-4.63(a) sets forth 5 conditions which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified categories of development is as follows:

- iv. A single family dwelling on a parcel within a Regional Growth Area, Pinelands Towns or a Pinelands Village which will be served by a centralized waste water treatment system.

This application is only for a Waiver of Strict Compliance from the wetlands protection requirements of the CMP. The parcel is located in a Regional Growth Area. The applicant is seeking to develop a single family dwelling utilizing public sanitary sewer on the parcel. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1iv.

The second condition is that the parcel includes all contiguous land in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. The parcel includes all such contiguous land. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)2.

The third condition is that the proposed use will be the sole principal use on the entire contiguous parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c). As the proposed single family dwelling could be the sole principal use on the parcel, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)3.

The fourth condition is that all necessary municipal lot area and density variances have been obtained if the parcel is located in a municipality whose master plan and land use ordinances have been certified by the Pinelands Commission. Pemberton Township's master plan and land use ordinances have been certified by the Pinelands Commission. The certified ordinances do not require any municipal lot area or density variances. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

The fifth condition is that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). N.J.A.C. 7:50-4.65(b) sets forth the circumstances which do not comply with N.J.A.C. 7:50-4.65(a). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver of Strict Compliance which permits a parcel to be developed unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP. N.J.A.C. 7:50-4.65(b) provides that the following circumstance will result in substantial impairment of the resources of the Pinelands Area and do not comply with N.J.A.C. 7:50-4.65(a):

N.J.A.C. 7:50-4.65(b)5. Any development, except for development permitted in wetlands pursuant to N.J.A.C. 7:50-6, Part I, which will be located on any wetland unless that wetland is an impaired wetland.

The wetlands are not impaired wetlands. The proposed single family dwelling will be located on these freshwater wetlands in violation of N.J.A.C. 7:50-4.65(b)5. As a result, the applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(a)5.

As the applicant does not meet all the requirements set forth in N.J.A.C. 7:50-4.63(a), the applicant does not qualify for a Waiver of Strict Compliance pursuant to that subsection.

N.J.A.C. 7:50-4.63(b) sets forth 4 conditions each of which must be met for an applicant to qualify for a Waiver of Strict Compliance based on extraordinary hardship pursuant to that subsection.

The first condition is that the parcel includes all contiguous lands in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. The parcel includes all the contiguous lands that were in common ownership on or after January 14, 1981. The applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(b)1.

The second condition is that the parcel includes all contiguous land with no substantial improvements which is available for purchase at fair market value, including lands which are contiguous as a result of the acquisition of other contiguous lands. There is vacant land bordering the parcel. The applicant has not demonstrated that the vacant land is not available for purchase at its fair market value. The applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(b)2.

The third condition is that the parcel, including all contiguous lands which are available pursuant to N.J.A.C. 7:50-4.63(b)1 and 2, may not have a beneficial use considering five enumerated factors.

The first factor to be considered is the value of any existing development or use of the overall parcel, including any allocation of Pinelands Development Credits. There are no Pinelands Development Credits assigned to lands in a Regional Growth Area. The parcel is vacant and the applicant has not established any use on the parcel.

The second factor to be considered is the value of any use or development of the overall parcel that is authorized by the provisions of the CMP. The applicant has submitted no information concerning the value of any use or development of the parcel, including any vacant contiguous lands which are potentially available, that is authorized by the provisions of the CMP.

The third factor to be considered is the ability of the property owner to sell the parcel to the owner of a contiguous parcel, any governmental agency or to a non-profit conservation group for its



fair market value. The applicant has submitted no information to demonstrate that the parcel cannot be sold for its fair market value.

The fourth factor is the ability of the property owner to either buy non-contiguous land or to sell the parcel to a non-contiguous property owner under a transfer of residential density provision contained in a certified municipal land use ordinance or pursuant to N.J.A.C. 7:50-5.30. As this parcel is located in a Regional Growth Area, the provisions of N.J.A.C. 7:50-5.30 do not apply. There is no transfer of residential density provision in Pemberton Township's certified land use ordinances which applies to this parcel.

Based on these factors, the overall contiguous parcel, including those lands which are potentially available, has a beneficial use.

The fifth factor to be considered is whether any inability to have a beneficial use relates to or arises out of the characteristics of the parcel and results from unique circumstances peculiar to the parcel which are not the result of any personal situation of the applicant and are not the result of any action or inaction by the applicant or any predecessor in title. The wetlands protection requirements of the CMP apply to all other vacant property in the area.

Based on these factors, the applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(b)3.

The fourth condition is that the proposed development will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). As concluded above, the proposed development will violate N.J.A.C. 7:50-4.65(b)5. As a result, the applicant does not meet the criteria contained in N.J.A.C. 7:50-4.63(b)4.

As the applicant does not meet all the requirements for demonstrating extraordinary hardship contained in N.J.A.C. 7:50-4.63(b), the applicant does not qualify for a Waiver of Strict Compliance pursuant to that provision.

As N.J.A.C. 7:50-4.63(a) and (b) are the exclusive means of establishing extraordinary hardship, the applicant does not qualify for a Waiver of Strict Compliance.

As a result, it is recommended that the Pinelands Commission DENY the requested Waiver of Strict Compliance.

### **APPEAL**

Any interested person may appeal the Executive Director's determination to the Commission. The request to appeal the decision must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Pemberton Township Planning Board;
  - c. Pemberton Township Environmental Commission;

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Denial: \_\_\_\_\_  
Charles M. Horner, P.P.  
Director, Regulatory Programs

AF/KC

c: Secretary, Pemberton Township Planning Board  
Pemberton Township Environmental Commission  
April Fijalkowski  
Betsy Piner

**REPORT ON AN APPLICATION FOR A  
WAIVER OF STRICT COMPLIANCE**

August 18, 2006

Su Cha Brennan  
PO Box 619  
Browns Mills NJ 08015

Please Always Refer To  
This Application Number

Re:   Application # 2005-0316.001  
      Block 238, Lots 17-21  
      Pemberton Township

Dear Ms. Brennan:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission deny the application at its September 8, 2006 meeting. If the Pinelands Commission denies this application, the State of New Jersey may purchase this parcel under the Limited Practical Use Program. We will send you that application form and additional information concerning the LPU Program if the Commission denies the Waiver application.

**FINDINGS OF FACT**

This application is for the development of a single family dwelling, served by public sanitary sewer, on the above 10,000 square foot parcel in Pemberton Township. The parcel is located in Pemberton's R-80 zoning district within a Pinelands Regional Growth Area. Pemberton Township has established the minimum lot size requirement in this portion of the Regional Growth Area as one dwelling unit per 8,000 square feet when public sanitary sewer is available. The single family dwelling would be served by public sanitary sewer.

The parcel has been site inspected by a member of the Commission's staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.

The parcel is predominantly a hardwood swamp and stream as defined in N.J.A.C. 7:50-6.5(a)2 and 7 which continue onto adjacent properties. These wetlands are not impaired wetlands. The proposed development will be located on freshwater wetlands. Any development of the subject parcel would also be located within 300 feet of freshwater wetlands. The applicant has submitted no information to demonstrate that the proposed development would not cause a significant adverse impact on the freshwater wetlands. Based on the quality and location of the freshwater wetlands, the proposed development will cause a significant adverse impact on the wetlands. As the proposed development will be located on wetlands and will cause a significant adverse impact on adjoining freshwater wetlands the applicant is requesting a Waiver of Strict Compliance from the wetlands protection requirements contained in N.J.A.C. 7:50-6.6 and N.J.A.C. 7:50-6.14.

There is vacant land bordering the parcel. The applicant has not demonstrated that this vacant land is not available for its fair market value. No information has been submitted to demonstrate that some or all of the parcel could not be sold to the owners of contiguous parcels, to a governmental agency or to a non-profit conservation group for its fair market value. No information has been submitted concerning the value of any use or development of the parcel that is authorized by the Pinelands Comprehensive Management Plan (CMP).

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling could be the sole principal use of the entire contiguous parcel. The development of a single family dwelling on the parcel will not require any lot area or density variances pursuant to Pemberton Township's certified land use ordinances.

There is vacant land contiguous with the parcel. The applicant has submitted no information to demonstrate that the parcel is incapable of having a beneficial use if utilized as authorized by the provisions of the CMP. The applicant has submitted no information to demonstrate that any inability of the parcel to have a beneficial use results from unique circumstances peculiar to the parcel which do not affect other property in the immediate vicinity. The applicant has also not submitted information to demonstrate that any inability to have a beneficial use arises out of the characteristics of the parcel rather than the personal circumstances of the applicant or the actions and inactions of the owner or any predecessor in title.

The applicant has provided the requisite public notice. The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

N.J.A.C. 7:50-4.62 sets forth the standards which must be met before a Waiver can be approved. N.J.A.C. 7:50-4.62(a) requires that for an application to be approved based on

extraordinary hardship that the applicant must demonstrate that the conditions of either N.J.A.C. 7:50-4.63(a) or (b) have been met.

N.J.A.C. 7:50-4.63(a) sets forth 5 conditions which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. One of the specified categories of development is as follows:

- iv. A single family dwelling on a parcel within a Regional Growth Area, Pinelands Towns or a Pinelands Village which will be served by a centralized waste water treatment system.

This application is only for a Waiver of Strict Compliance from the wetlands protection requirements of the CMP. The parcel is located in a Regional Growth Area. The applicant is seeking to develop a single family dwelling served by public sanitary sewer. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)1iv.

The second condition is that the parcel includes all contiguous land in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. The parcel includes all such contiguous land. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)2.

The third condition is that the proposed use will be the sole principal use on the entire contiguous parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c). As the proposed single family dwelling could be the sole principal use on the parcel, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)3.

The fourth condition is that all necessary municipal lot area and density variances have been obtained if the parcel is located in a municipality whose master plan and land use ordinances have been certified by the Pinelands Commission. Pemberton Township's master plan and land use ordinances have been certified by the Pinelands Commission. The certified ordinances do not require any municipal lot area or density variances. As a result, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

The fifth condition is that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). N.J.A.C. 7:50-4.65(b) sets forth the circumstances which do not comply with N.J.A.C. 7:50-4.65(a). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver of Strict Compliance which permits a parcel to be developed unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP. N.J.A.C. 7:50-4.65(b) provides that the following circumstance will result in substantial impairment of the resources of the Pinelands Area and do not comply with N.J.A.C. 7:50-4.65(a):

N.J.A.C. 7:50-4.65(b)5. Any development, except for development permitted in wetlands pursuant to N.J.A.C. 7:50-6, Part I, which will be located on any wetland unless that wetland is an impaired wetland.

The wetlands are not impaired wetlands. The proposed single family dwelling will be located on these freshwater wetlands in violation of N.J.A.C. 7:50-4.65(b)5. As a result, the applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(a)5.

As the applicant does not meet all the requirements set forth in N.J.A.C. 7:50-4.63(a), the applicant does not qualify for a Waiver of Strict Compliance pursuant to that subsection.

N.J.A.C. 7:50-4.63(b) sets forth 4 conditions each of which must be met for an applicant to qualify for a Waiver of Strict Compliance based on extraordinary hardship pursuant to that subsection.

The first condition is that the parcel includes all contiguous lands in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. The parcel includes all the contiguous lands that were in common ownership on or after January 14, 1981. The applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(b)1.

The second condition is that the parcel includes all contiguous land with no substantial improvements which is available for purchase at fair market value, including lands which are contiguous as a result of the acquisition of other contiguous lands. There is vacant land bordering the parcel. The applicant has not demonstrated that the vacant land is not available for purchase at its fair market value. The applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(b)2.

The third condition is that the parcel, including all contiguous lands which are available pursuant to N.J.A.C. 7:50-4.63(b)1 and 2, may not have a beneficial use considering five enumerated factors.

The first factor to be considered is the value of any existing development or use of the overall parcel, including any allocation of Pinelands Development Credits. There are no Pinelands Development Credits assigned to lands in a Regional Growth Area. The parcel is vacant and the applicant has not established any use on the parcel.

The second factor to be considered is the value of any use or development of the overall parcel that is authorized by the provisions of the CMP. The applicant has submitted no information concerning the value of any use or development of the parcel, including any vacant contiguous lands which are potentially available, that is authorized by the provisions of the CMP.

The third factor to be considered is the ability of the property owner to sell the parcel to the owner of a contiguous parcel, any governmental agency or to a non-profit conservation group for its

fair market value. The applicant has submitted no information to demonstrate that the parcel cannot be sold for its fair market value.

The fourth factor is the ability of the property owner to either buy non-contiguous land or to sell the parcel to a non-contiguous property owner under a transfer of residential density provision contained in a certified municipal land use ordinance or pursuant to N.J.A.C. 7:50-5.30. As this parcel is located in a Regional Growth Area, the provisions of N.J.A.C. 7:50-5.30 do not apply. There is no transfer of residential density provision in Pemberton Township's certified land use ordinances which applies to this parcel.

Based on these factors, the overall contiguous parcel, including those lands which are potentially available, has a beneficial use.

The fifth factor to be considered is whether any inability to have a beneficial use relates to or arises out of the characteristics of the parcel and results from unique circumstances peculiar to the parcel which are not the result of any personal situation of the applicant and are not the result of any action or inaction by the applicant or any predecessor in title. The wetlands protection requirements of the CMP apply to all other vacant property in the area.

Based on these factors, the applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(b)3.

The fourth condition is that the proposed development will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). As concluded above, the proposed development will violate N.J.A.C. 7:50-4.65(b)5. As a result, the applicant does not meet the criteria contained in N.J.A.C. 7:50-4.63(b)4.

As the applicant does not meet all the requirements for demonstrating extraordinary hardship contained in N.J.A.C. 7:50-4.63(b), the applicant does not qualify for a Waiver of Strict Compliance pursuant to that provision.

As N.J.A.C. 7:50-4.63(a) and (b) are the exclusive means of establishing extraordinary hardship, the applicant does not qualify for a Waiver of Strict Compliance.

As a result, it is recommended that the Pinelands Commission DENY the requested Waiver of Strict Compliance.

### **APPEAL**

Any interested person may appeal the Executive Director's determination to the Commission. The request to appeal the decision must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Pemberton Township Planning Board;
  - c. Pemberton Township Environmental Commission;

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Denial: \_\_\_\_\_  
Charles M. Horner, P.P.  
Director, Regulatory Programs

AF/KC

c: Secretary, Pemberton Township Planning Board  
Pemberton Township Environmental Commission  
April Fijalkowski  
Betsy Piner



**REPORT ON AN APPLICATION FOR A  
WAIVER OF STRICT COMPLIANCE**

August 18, 2006

Frank & Helene Russ  
699 Goodwater Ave  
Browns Mills NJ 08015

Please Always Refer To  
This Application Number

Re:    Application # 2005-0535.001  
       Block 163, Lots 25-32  
       Pemberton Township

Dear Mr. & Mrs. Russ:

The Commission staff has completed its review of the above referenced application. Based upon the facts and conclusions contained in this Report, on behalf of the Commission's Executive Director, I am recommending that the Pinelands Commission deny the application at its September 8, 2006 meeting. If the Pinelands Commission denies this application, the State of New Jersey may purchase this parcel under the Limited Practical Use Program. We will send you that application form and additional information concerning the LPU Program if the Commission denies the Waiver application.

**FINDINGS OF FACT**

This application is for the development of one single family dwelling, served by an onsite septic system, on the above referenced 16,000 square foot (0.37 acre) parcel in Pemberton Township. Road improvements would be required to access the parcel. The parcel is located in Pemberton's R-80 zoning district within a Pinelands Regional Growth Area. Pemberton Township has established a minimum lot size requirement in this portion of the Regional Growth Area as one dwelling unit per 40,000 square feet when utilizing an alternate design onsite septic system. As the proposed development is not consistent with the minimum lot size requirements in a Regional Growth Area

when an onsite septic system is utilized, the applicant is requesting a Waiver of Strict Compliance from the restrictions on residential development contained in N.J.A.C. 7:50-5.28(b).

As no known onsite sewage disposal system will result in an average concentration of nitrate-nitrogen in the groundwater at the property line of a parcel of this size of no more than 2 ppm, the applicant is also requesting a Waiver of Strict Compliance from the water quality requirements contained in N.J.A.C. 7:50-6.84(a)5iv.

The parcel has been site inspected by a member of the Commission's staff. In addition, the appropriate resource capability maps and data available to the staff have been reviewed.

The Burlington County Soils Survey indicates that there are Atsion soils on this parcel. These soils have a seasonal high water table of less than 5 feet below the natural ground surface. A soil boring performed by Commission staff on the parcel indicates a seasonal high water table of less than 5 feet below the natural ground surface on the parcel. The applicant has submitted no information to demonstrate that the septic system could be located in an area where the seasonal high water table is at least 5 feet below the natural ground surface. The applicant has submitted no information to demonstrate that the seasonal high water table at the proposed location of the septic system is at least 2 feet below the natural ground surface. Since the available information indicates the seasonal high water table on the entire parcel is less than 5 feet below the natural ground surface, the applicant is requesting a Waiver of Strict Compliance from the seasonal high water table requirement contained in N.J.A.C. 7:50-6.84(a)5vi.

The parcel is predominantly a hardwood swamp as defined in N.J.A.C. 7:50-6.5(a)2 which continues onto adjacent properties. These wetlands are not impaired wetlands. The proposed development will be located on freshwater wetlands. Any development of the parcel would also be located within 300 feet of adjoining freshwater wetlands. The applicant has submitted no information to demonstrate that the proposed development would not cause a significant adverse impact on the freshwater wetlands. Based on the quality and location of the freshwater wetlands, the proposed development will cause a significant adverse impact on the wetlands. As the proposed development will be located on wetlands and will cause a significant adverse impact on adjoining freshwater wetlands, the applicant is requesting a Waiver of Strict Compliance from the wetlands protection requirements contained in N.J.A.C. 7:50-6.6 and N.J.A.C. 7:50-6.14.

There is vacant land bordering the parcel. The applicant has not demonstrated that this vacant land is not available for its fair market value. No information has been submitted to demonstrate that some or all of the parcel could not be sold to the owners of contiguous parcels, to a governmental agency or to a non-profit conservation group for its fair market value. No information has been submitted concerning the value of any use or development of the parcel that is authorized by the Pinelands Comprehensive Management Plan (CMP).

The parcel includes all contiguous land in common ownership on or after January 14, 1981. The proposed single family dwelling could be the sole principal use of the entire contiguous parcel.

The development of a single family dwelling on the parcel requires a lot area or density variance pursuant to Pemberton Township's certified land use ordinances. No such variance has been obtained.

There is vacant land contiguous with the parcel. The applicant has submitted no information to demonstrate that the parcel is incapable of having a beneficial use if utilized as authorized by the provisions of the CMP. The applicant has submitted no information to demonstrate that any inability of the parcel to have a beneficial use results from unique circumstances peculiar to the parcel which do not affect other property in the immediate vicinity. The applicant has also not submitted information to demonstrate that any inability to have a beneficial use arises out of the characteristics of the parcel rather than the personal circumstances of the applicant or the actions and inactions of the owner or any predecessor in title.

The applicant has provided the requisite public notice. The Pinelands Commission has not received any public comments concerning the application.

### **CONCLUSION**

N.J.A.C. 7:50-4.62 sets forth the standards which must be met before a Waiver can be approved. N.J.A.C. 7:50-4.62(a) requires that for an application to be approved based on extraordinary hardship that the applicant must demonstrate that the conditions of either N.J.A.C. 7:50-4.63(a) or (b) have been met.

N.J.A.C. 7:50-4.63(a) sets forth 5 conditions which must be met for an applicant to qualify for an extraordinary hardship pursuant to that subsection.

The first condition is that the only relief sought is from one or more of the standards contained in N.J.A.C. 7:50-6 for certain specified development. The development of a single family dwelling served by an on site septic system on a lot of less than 20,000 square feet in a Regional Growth Area is not one of the specified categories of development. The applicant does not meet the criteria contained in N.J.A.C. 7:50-4.63(a)1.

The second condition is that the parcel includes all contiguous land in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. Since the subject parcel includes all such contiguous lands, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)2.

The third condition is that the proposed use will be the sole principal use on the entire contiguous parcel, except as expressly provided in N.J.A.C. 7:50-5.1(c). As the proposed single family dwelling could be the sole principal use on the parcel, the applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(a)3.

The fourth condition is that all necessary municipal lot area and density variances have been

obtained if the parcel is located in a municipality whose master plan and land use ordinances have been certified by the Pinelands Commission. Pemberton Township's master plan and land use ordinances have been certified by the Pinelands Commission. The certified ordinances require a municipal lot area or density variance. No such variance has been obtained. As a result, the applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(a)4.

The fifth condition is that the development of the parcel will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). N.J.A.C. 7:50-4.65(b) sets forth the circumstances which do not comply with N.J.A.C. 7:50-4.65(a). N.J.A.C. 7:50-4.65(a) precludes the granting of a Waiver of Strict Compliance which permits a parcel to be developed unless such development will be consistent with the purposes and provisions of the Pinelands Protection Act, the Federal Act and the CMP. N.J.A.C. 7:50-4.65(b) provides that the following circumstances will result in substantial impairment of the resources of the Pinelands Area and do not comply with N.J.A.C. 7:50-4.65(a):

- N.J.A.C. 7:50-4.65(b)3. Any residential use to be served by an on-site sewage disposal system where the overall density is greater than one dwelling unit per 20,000 square feet, excluding road rights of way, or where any dwelling will be located on a lot smaller than 20,000 square feet, excluding road rights of way.
- N.J.A.C. 7:50-4.65(b)5. Any development, except for development permitted in wetlands pursuant to N.J.A.C. 7:50-6, Part I, which will be located on any wetland unless that wetland is an impaired wetland.

The proposed development of a single family dwelling with an onsite sewage disposal system on a 16,000 square foot (0.37 acre) parcel will violate N.J.A.C. 7:50-4.65(b)3. The freshwater wetlands on the parcel are not impaired wetlands. The proposed single family dwelling will be located on these freshwater wetlands in violation of N.J.A.C. 7:50-4.65(b)5. As a result, the applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(a)5.

As the applicant does not meet all the requirements set forth in N.J.A.C. 7:50-4.63(a), the applicant does not qualify for a Waiver of Strict Compliance pursuant to that subsection.

N.J.A.C. 7:50-4.63(b) sets forth 4 conditions each of which must be met for an applicant to qualify for a Waiver of Strict Compliance based on extraordinary hardship pursuant to that subsection.

The first condition is that the parcel includes all contiguous lands in common ownership on or after January 14, 1981, including lands which are contiguous as a result of ownership of other contiguous lands. As concluded above, the parcel includes all contiguous lands that were in common ownership on or after January 14, 1981. The applicant meets the criteria set forth in N.J.A.C. 7:50-4.63(b)1.

The second condition is that the parcel includes all contiguous land with no substantial improvements which is available for purchase at fair market value, including lands which are contiguous as a result of the acquisition of other contiguous lands. There is vacant land bordering the parcel. The applicant has not demonstrated that the vacant land is not available for purchase at its fair market value. The applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(b)2.

The third condition is that the parcel, including all contiguous lands which are available pursuant to N.J.A.C. 7:50-4.63(b)1 and 2, may not have a beneficial use considering five enumerated factors.

The first factor to be considered is the value of any existing development or use of the overall parcel, including any allocation of Pinelands Development Credits. There are no Pinelands Development Credits assigned to lands in a Regional Growth Area. The overall parcel is vacant and the applicant has not established any use on the parcel.

The second factor to be considered is the value of any use or development of the overall parcel that is authorized by the provisions of the CMP. The applicant has submitted no information concerning the value of any use or development of the overall parcel, including vacant contiguous lands that are potentially available, that is authorized by the provisions of the CMP.

The third factor to be considered is the ability of the property owner to sell the parcel to the owner of a contiguous parcel, any governmental agency or to a non-profit conservation group for its fair market value. The applicant has submitted no information to demonstrate that the parcel cannot be sold for its fair market value.

The fourth factor is the ability of the property owner to either buy non-contiguous land or to sell the parcel to a non-contiguous property owner under a transfer of residential density provision contained in a certified municipal land use ordinance or pursuant to N.J.A.C. 7:50-5.30. As this parcel is located in a Regional Growth Area, the provisions of N.J.A.C. 7:50-5.30 do not apply. There is no transfer of residential density provision in Pemberton Township's certified land use ordinances which applies to this parcel.

Based on these factors, the overall contiguous parcel, including lands which are potentially available, has a beneficial use.

The fifth factor to be considered is whether any inability to have a beneficial use relates to or arises out of the characteristics of the parcel and results from unique circumstances peculiar to the parcel which are not the result of any personal situation of the applicant and are not the result of any action or inactions by the applicant or any predecessor in title. The minimum lot size, water quality and wetlands protection requirements of the CMP apply to all other vacant property in the area. Any hardship which does exist is a result of the applicant's personal circumstances and their actions and inactions.

Based on these factors, the applicant does not meet the criteria set forth in N.J.A.C. 7:50-4.63(b)3.

The fourth condition is that the proposed development will not violate any of the criteria contained in N.J.A.C. 7:50-4.65(b). As concluded above, a single family dwelling cannot be developed on the subject parcel without violating N.J.A.C. 7:50-4.65(b) 3 and 5. As a result, the applicant does not meet the criteria contained in N.J.A.C. 7:50-4.63(b)4.

As the applicant does not meet all the requirements for demonstrating extraordinary hardship contained in N.J.A.C. 7:50-4.63(b), the applicant does not qualify for a Waiver of Strict Compliance pursuant to that provision.

As N.J.A.C. 7:50-4.63(a) and (b) are the exclusive means of establishing extraordinary hardship, the applicant does not qualify for a Waiver of Strict Compliance.

As a result, it is recommended that the Pinelands Commission DENY the requested Waiver of Strict Compliance.

### **APPEAL**

Any interested person may appeal the Executive Director's determination to the Commission. The request to appeal the decision must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Pemberton Township Planning Board;
  - c. Pemberton Township Environmental Commission;

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on September 8, 2006. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Denial: \_\_\_\_\_  
Charles M. Horner, P.P.  
Director, Regulatory Programs

AF/KC

c: Secretary, Pemberton Township Planning Board  
Pemberton Township Environmental Commission  
Olafur Kristjansson  
April Fijalkowski  
Betsy Piner

**AMENDED LETTER OF INTERPRETATION # 852**

(Corrected copy - date)

July 31, 2006

Frederick & Deborah Kleinow  
PO Box 154  
Milmay NJ 08340

Please Always Refer To  
This Application Number

Re: Application # 1993-0898.001P  
Block 2453, Lots 11-13  
Quintin Street  
Lacey Township

**FINDINGS OF FACT**

The applicants own the above referenced 0.14 acre parcel in the Lacey Township. The parcel is located in the Pinelands Preservation Area District. Pursuant to N.J.A.C. 7:50-4.72(a)2, the applicants are requesting an Amended Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs) which are attributed to this parcel.

The Commission issued LOI #852 on December 13, 1993 allocating 0.25 PDCs to this 0.14 acre parcel. The applicants have requested an amended LOI reflecting the current ownership of the parcel. This Amended LOI #852 replaces the previously issued LOI #852.

The parcel contains 0.14 acres of wooded uplands. There are no easements limiting the use of this parcel to non-residential uses. The parcel was not in common ownership with any contiguous lots on or after February 7, 1979. The parcel is vacant. No resource extraction operation or other development has been approved for this parcel pursuant to the provisions of the Comprehensive Management Plan (CMP). The applicants's aunt, defined by the CMP as an immediate family member, owned this lot prior to February 7, 1979.

**CONCLUSION**

The CMP grants, with certain exceptions, to every parcel of land in the Preservation Area District, a use right known as "Pinelands Development Credits," that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C.7:50-5.43). None of these exceptions apply to this lot.



The CMP establishes the ratio by which PDCs are allocated in the Preservation Area District (N.J.A.C. 7:50-5.43(b)1). One PDC is allocated for every 39 acres of uplands, except for certain uplands which have been approved for resource extraction operations. There are 0.2 PDCs allocated for every 39 acres of wetlands.

For the 0.14 acres of wooded uplands, the applicant is entitled to 0.007 PDCs.

The CMP provides that the owner as of February 8, 1979, of any parcel of land containing at least 0.1 acres in the the Pinelands Preservation Area District are entitled to 0.25 PDCs provided that the lot is vacant, not in common ownership with any contiguous land on February 7, 1979 (N.J.A.C. 7:50-5.43(b)4) and has not been sold or transferred except to a member of the owner's immediate family. The applicant has submitted information representing that his aunt, an immediate family member, owned this lot prior to February 7, 1979. Therefore, the applicant meets this requirement.

The CMP also provides that the total allocations made pursuant to N.J.A.C. 7:50-5.43(b)4 or 5 for any one owner shall not exceed 0.50 PDCs (N.J.A.C. 7:50-5.43(b)6). At such time as the application of N.J.A.C. 7:50-5.43(b)4 or 5 would exceed a total allocation of 0.50 PDCs to an owner, all remaining lands of that owner in excess of that needed to yield the 0.50 PDC allocation shall be entitled to a fractional allocation of PDCs at the same ratio established in N.J.A.C. 7:50-5.43(b)1.

Therefore, there are 0.25 PDCs allocated to the 0.14 acre parcel comprised of Block 2453, Lots 11-13 subject of this application.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Pinelands Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by certified mail, of the appeal to the Commission. Said notice shall include:

1. the name and address of the person making the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by certified mail, on:
  - a. the applicant (unless the applicant is making the appeal);

- b. Secretary, Lacey Township Planning Board;
- c. Lacey Township Environmental Commission;
- d. Ocean County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this Letter of Interpretation shall take effect.

If you are interested in the possible sale of your PDCs, please contact the Pinelands Development Credit Bank for further information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P. P.  
Director of Regulatory Programs

MEI:CMH

- c: Secretary, Lacey Township Planning Board  
Lacey Township Environmental Commission  
Secretary, Ocean County Planning Board  
Robert A. DePetrìs  
Mary E. Irvine  
Betsy Piner

**AMENDED LETTER OF INTERPRETATION #1275**

August 7, 2006

Carol L. Barry  
James J. Hornig  
6 Brogan Lane  
Tuckerton, NJ 08087

Please Always Refer To  
This Application Number

Re:   Application # 2000-0193.001  
      Block 2, Lot 27  
      Block 11, Lot 2  
      Brogan Lane  
      Bass River Township

**FINDINGS OF FACT**

The applicants own the above referenced 23.17 acre parcel in Bass River Township. This acreage is based upon the Township tax map. The parcel is located partially in the Pinelands Preservation Area District (23.0 acres) and partially in a Pinelands Forest Area (0.17 acres). Pursuant to N.J.A.C. 7:50-4.72(a)2, the applicants are requesting an Amended Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs) which are attributed to this parcel.

On August 7, 2000, the Commission issued LOI#1275 allocating 0 PDCs to 23.0 acre Block 2, Lot 27. The current applicants have requested an Amended LOI reflecting the current ownership of the parcel. This Amended LOI#1275 replaces the previous LOI#1275.

0.17 acre Block 11, Lot 2 is located in a Pinelands Forest Area. PDCs are not allocated to land located in a Pinelands Forest Area.

PDCs are allocated to lands located in the Pinelands Preservation Area District. The 23.0 acre portion of the parcel located in the Pinelands Preservation Area District consists 11.46 acres of wooded and cleared uplands. The remaining 11.54 acres are freshwater wetlands consisting of a hardwood swamp and pitch pine lowlands. There are no easements limiting the use of this parcel to

**\* 20000193. 001 \***

non-residential uses. The parcel was not in common ownership with any contiguous lots on or after February 7, 1979. There is one existing single family dwelling and accessory structures located on the 23.0 acre portion of the parcel located in the Pinelands Preservation Area District. The applicants are reserving the right to construct one future dwelling on the 23.0 acre portion of the parcel located in the Pinelands Preservation Area District. No resource extraction operation or other development has been approved for this parcel pursuant to the provisions of the Comprehensive Management Plan (CMP).

### **CONCLUSION**

The CMP grants, with certain exceptions, to every parcel of land in the Preservation Area District, a use right known as “Pinelands Development Credits,” that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C.7:50-5.43). None of these exceptions apply to this lot.

The CMP establishes the ratio by which PDCs are allocated in the Preservation Area District (N.J.A.C. 7:50-5.43(b)1). One PDC is allocated for every 39 acres of uplands, except for certain uplands which have been approved for resource extraction operations. There are 0.2 PDCs allocated for every 39 acres of wetlands. There are 0 PDCs allocated to lands located in a Pinelands Forest Area.

PDCs are not allocated to the 0.17 acres of Block 11, Lot 2 located in a Pinelands Forest Area.

For the 11.46 acres of uplands located in the Pinelands Preservation Area District, the applicants are entitled to 0.29 PDCs. The hardwood swamp and pitch pine lowlands are freshwater wetlands (N.J.A.C. 7:50-6.5(a) 2 & 3). For the 11.54 acres of freshwater wetlands, the applicants are entitled to 0.06 PDCs. Not considering the one existing dwelling on the portion of the parcel located in the Pinelands Preservation Area District and the reserved right to construct one future dwelling on the portion of the parcel located in the Pinelands Preservation Area District, the parcel would be entitled to an allocation of 0.25 PDCs. However, N.J.A.C. 7:50-5.43(b)3ii requires that the PDC entitlement for the parcel be reduced by 0.25 PDCs for each existing dwelling on the parcel and N.J.A.C. 7:50-5.43(b)3iii requires that the PDC entitlement for the parcel be reduced by 0.25 PDCs for each reserved right to construct a future dwelling on the parcel.

Based upon these reductions, there are 0 PDCs allocated to this 23.17 acre parcel.

### **APPEAL**

Any interested person may appeal the Executive Director’s determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis of the appeal; and
4. a certificate of service (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Bass River Township Planning Board; and
  - c. Burlington County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this letter shall take effect.

If you are interested in the possible sale of your PDCs, please contact the Pinelands Development Credit Bank for further information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P.P.  
Director of Regulatory Programs

MEI:CH

c: Secretary, Bass River Township Planning Board  
Burlington County Planning Board  
Executive Director, PDC Bank  
Betsy Piner  
Mary E. Irvine

**AMENDED LETTER OF INTERPRETATION #1771**

(Corrected copy - Date July 11 , 2005, paragraph 2)

August 1, 2006

Betts & Betts, LLC  
PO Box 366  
Tuckahoe, NJ 08250

Please Always Refer To  
This Application Number

Re: Application #1989-1135.004  
Block 294, Lot 2  
Block 297, Lots 7 & 8  
Myrtle Avenue  
Waterford Township

**FINDINGS OF FACT**

The applicant owns the above referenced 19.96 acre parcel in Waterford Township. The parcel is located in a Pinelands Agricultural Production Area. Pursuant to N.J.A.C. 7:50-4.72(a)2, the applicant is requesting an Amended Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs) which are attributed to this parcel.

On July 11, 2005, the Commission issued LOI#1771 to the applicant. That LOI concluded that 0.75 PDCs were allocated to the above referenced parcel. On July 29, 2005, the applicant appealed the conclusion of LOI#1771 to the New Jersey Office of Administrative Law. A Stipulation of Settlement was entered into on June 20, 2006 by the applicant and the Commission to resolve the appeal. The Stipulation of Settlement agreed that the allocation of PDCs to the parcel would be increased from 0.75 to 1.0 PDCs. This Amended LOI#1771 replaces the previously issued LOI#1771.

The entire 19.96 acre parcel is comprised of uplands in active field agriculture. The parcel is vacant. There are no easements limiting the use of this parcel to non-residential uses. No resource extraction operation or other development has been approved for this parcel pursuant to the provisions of the Pinelands Comprehensive Management Plan (CMP).

On or after January 14, 1981, the parcel was in common ownership with the following contiguous lands in Waterford Township: Block 292, Lot 1; Block 293, Lot 1; Block 294, Lot 3; Block 297, Lots 1, 3, 9-11; Block 298, Lots 1-4, 6-8; and Block 299, Lots 1-4. On or after January 14, 1981, the 19.96 acre parcel was also in common ownership with the following contiguous lands in the Town of Hammonton: Block 5001, Lots 5-7; Block 5002, Lot 11; Block 5601, Lots 1-9; and Block 5602, Lots 3-7. On or after January 14, 1981, the parcel was also in common ownership with

the following contiguous lands in Winslow Township: Block 7104, Lots 1 and 3; and Block 7105, Lot 5 and 15.

The 19.96 acre parcel subject of LOI # 1771 and the contiguous lands in common ownership on or after January 14, 1981 formed an overall 710.01 acre parcel. There are two existing single family dwellings on the overall contiguous parcel; one on Block 292, Lot 1 in Waterford Township and one on Block 5001, Lot 5 in the Town of Hammonton. The applicant previously reserved the right to construct a total of one future dwelling on combined Block 297, Lot 11, Block 298, Lots 1-4 and Block 299, Lots 1-4 in Waterford Township (App. No. 84-0389.03).

The Commission previously issued the following LOIs allocating PDCs to lands in common ownership on or after January 14, 1981 with the 19.96 acre parcel subject of LOI # 1771:

On May 4, 1994, the Commission issued Re-Amended LOI #307 allocating 20.0 PDCs to a 410.93 acre parcel comprised of contiguous Block 5601, Lots 1-9 and Block 5602, Lots 3-7 in the Town of Hammonton and Block 297, Lot 11; Block 298, Lots 1-4; and Block 299, Lots 1-4 in Waterford Township (App. No. 84-0389.03).

On December 14, 1998, the Commission issued LOI #1193 allocating 6.50 PDCs to a 133.68 acre parcel comprised of contiguous Block 5001, Lots 5-7 in the Town of Hammonton and Block 297, Lot 10 and Block 298, Lots 6-8 in Waterford Township (App. No. 84-0389.08).

On January 25, 2001, the Commission issued LOI #1400 allocating 1.25 PDCs to 22.83 acre Block 5002, Lot 11 in the Town of Hammonton (App. No. 00-0275.01).

On March 12, 2001, the Commission issued LOI#1415 allocating 1.25 PDCs to 21.98 acre Block 297, Lot 1 in Waterford Township (App. No. 89-1135.03).

On March 12, 2001, the Commission also issued LOI #1414 allocating 1.75 PDCs to a 33.65 acre parcel comprised of contiguous Block 7104, Lots 1 and 3 in Winslow Township and Block 297, Lot 3 in Waterford Township (App. No. 89-1135.02).

On March 12, 2001, the Commission issued LOI #1412 allocating 0.50 PDCs to 9.0 acre Block 7101, Lot 15 in Winslow Township (App. No. 00-0693.02).

On March 12, 2001 the Commission also issued LOI #1411 allocating 1.0 PDCs to 20.19 acre Block 7101, Lot 5 (App. No. 00-0693.01).

On March 26, 2001, the Commission issued LOI #1426 allocating 1.75 PDCs to 33.12 acre Block 297, Lot 9 in Waterford Township (App. No. 00-0276.01).

On May 2, 2001, the Commission issued LOI #1537 allocating 0.103 PDCs to 2.0 acre Block 294, Lot 3 in Waterford Township (App. No. 00-0701.01).

On May 2, 2001, the Commission issued LOI #1535 allocating 0 PDCs to 2.10 acre Block 293, Lot 1 in Waterford Township (App. No. 00-0698.01).

On March 7, 2002, the Commission issued LOI#1536 allocating 0 PDCs to 0.57 acre Block 292, Lot 1 in Waterford Township (App. No. 00-0699.01).

An application for resubdivision and no further development of Block 297, Lots 2, 3, and 10 in Waterford Township resulting in Block 297, Lots 3 and 10 and eliminating Block 297, Lot 2 was previously approved pursuant to the provisions of the CMP.(App. No. 89-1135.01).

### **CONCLUSION**

The CMP grants, with certain exceptions, to every parcel of land in an Agricultural Production Area, a use right known as "Pinelands Development Credits," that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C. 7:50-5.43). None of these exceptions apply to this lot.

The CMP establishes the ratio by which PDCs are allocated in an Agricultural Production Area (N.J.A.C. 7:50-5.43(b)2). Two PDCs are allocated for every 39 acres of uplands, except for uplands which are mined as a result of a resource extraction permit approved pursuant to the provisions of the CMP; for areas of active berry agricultural bogs and fields and for wetlands in active field agricultural use as of February 7, 1979. There are 0.2 PDCs allocated for every 39 acres of other wetlands.

For the 19.96 acres of the lot which are uplands in active field agriculture, the applicant is entitled to 1.02 PDCs. Not considering the contiguous land in common ownership on or after January 14, 1981, the 19.96 acre lot would be entitled to an allocation of 1.0 PDCs.

When allocating PDCs to portions of an overall contiguous parcel in common ownership, the sum of the PDCs allocated to the separate portions of the parcel must equal the number of PDCs allocated to the overall 710.01 acre parcel in common ownership on or after January 14, 1981. The parcel subject of this LOI was in common ownership on or after January 14, 1981 with contiguous Block 292, Lot 1; Block 293, Lot 1; Block 294, Lot 3; Block 297, Lots 1, 3, 9-11; Block 298, Lots 1-4, 6-8; and Block 299, Lots 1-4 in Waterford Township; Block 5001, Lots 5-7; Block 5002, Lot 11; Block 5601, Lots 1-9; and Block 5602, Lots 3-7 in the Town of Hammonton; and Block 7104, Lots 1 and 3; and Block 7105, Lot 5 and 15 in Winslow Township. The lands in common ownership on or after January 14, 1981 formed a contiguous parcel of 710.01 acres. There are two existing single family dwellings located on the overall contiguous parcel. The applicant previously reserved the right to construct a total of one dwelling on combined Block 297, Lot 11, Block 298, Lots 1-4 and Block 299, Lots 1-4 in Waterford Township (App. No. 84-0389.03).

The overall contiguous 710.01 acre parcel contains 669.96 acres of wooded uplands and uplands in active field agriculture and 21.1 acres of wetland soils in active field agriculture. The remaining 18.95 acres are freshwater wetlands comprised of hardwood swamps, pitch pine lowlands, and streams (N.J.A.C. 7:50-6.5(a)2, 3 and 7). The 669.96 acres of uplands would be entitled to 34.36



PDCs and the 21.19 acres of wetland soils in active field agriculture would be entitled to 1.09 PDCs. The 18.95 acres of freshwater wetlands would be entitled to 0.10 PDCs.

Not considering the two existing single family dwellings, one located on Block 292, Lot 1 in Waterford Township and one on Block 5001, Lot 5 in the Town of Hammonton, and the reserved right to construct one future dwelling on the parcel, there would be 35.50 PDCs allocated to the overall 710.01 contiguous parcel in common ownership on or after January 14, 1981 comprised of Block 292, Lot 1; Block 293, Lot 1; Block 294, Lots 2 and 3; Block 297, Lots 1, 3, 7-11; Block 298, Lots 1-4, 6-8; and Block 299, Lots 1-4 in Waterford Township; Block 5001, Lots 5-7; Block 5002, Lot 11; Block 5601, Lots 1-9; and Block 5602, Lots 3-7 in the Town of Hammonton; and Block 7104, Lots 1 and 3; and Block 7105, Lot 5 and 15 in Winslow Township. However, N.J.A.C. 7:50-5.43(b)3ii requires that the PDC entitlement for the overall parcel in common ownership on or after January 14, 1981 be reduced by 0.25 PDCs for each existing dwelling unit on the parcel. In addition, N.J.A.C. 7:50-5.43(b)3iii requires that the PDC entitlement for the parcel of land be reduced by 0.25 PDCs for each reserved right to build a dwelling on the parcel. Based upon these reductions, the overall contiguous parcel in common ownership would be entitled to 34.75 PDCs.

The overall contiguous parcel in common ownership on or after January 14, 1981 contains 710.01 acres. Excluding the 19.96 acre parcel subject of current LOI # 1771, the following LOIs allocating PDCs to the remaining 690.05 acre parcel in common ownership have already been issued:

LOI #307 allocated 20.0 PDCs to a 410.93 acre parcel comprised of contiguous Block 5601, Lots 1-9 and Block 5602, Lots 3-7 in the Town of Hammonton and Block 297, Lot 11; Block 298, Lots 1-4; and Block 299, Lots 1-4 in Waterford Township (App. No. 84-0389.03).

LOI#1193 allocated 6.50 PDCs to a 133.68 acre parcel comprised of contiguous Block 5001, Lots 5-7 in the Town of Hammonton and Block 297, Lot 10 and Block 298, Lots 6-8 in Waterford Township (App. No. 84-0389.08).

LOI#1400 allocated 1.25 PDCs to 22.83 acre Block 5002, Lot 11 in the Town of Hammonton (App. No. 00-0275.01).

LOI#1415 allocated 1.25 PDCs to 21.98 acre Block 297, Lot 1 in Waterford Township (App. No. 89-1135.03).

LOI#1414 allocated 1.75 PDCs to a 33.65 acre parcel comprised of contiguous Block 7104, Lots 1 and 3 in Winslow Township and Block 297, Lot 3 in Waterford Township (App. No. 89-1135.02).

LOI#1412 allocated 0.50 PDCs to 9.0 acre Block 7101, Lot 15 in Winslow Township (App. No. 00-0693.02).

LOI#1411 allocated 1.0 PDCs to 20.19 acre Block 7101, Lot 5 (App. No. 00-0693.01).

LOI#1426 allocated 1.75 PDCs to 33.12 acre Block 297, Lot 9 in Waterford Township (App. No. 00-0276.01).

LOI# 1537 allocated 0.103 PDCs to 2.0 acre Block 294, Lot 3 in Waterford Township(App. No. 00-0701.01).

LOI#1535 allocated 0 PDCs to 2.10 acre Block 293, Lot 1 in Waterford Township (App. No. 00-0698.01).

LOI#1536 allocated 0 PDCs to 0.57 acre Block 292, Lot 1 in Waterford Township (App. No. 00-0699.01).

The eleven above referenced LOIs allocated 34.0 PDCs to the 710.01 acre contiguous parcel in common ownership on or after January 14, 1981. However, based upon the Stipulation of Settlement entered into on June 20, 2006 by and between the applicant and the Commission, there are 1.0 PDCs allocated to 19.96 acre Block 294, Lot 2 and Block 297, Lots 7 and 8.

#### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Pinelands Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by certified mail, of the appeal to the Commission. Said notice shall include:

1. the name and address of the person making the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by certified mail, on:
  - a. the applicant (unless the applicant is making the appeal);
  - b. Secretary, Waterford Township Planning Board;
  - c. Waterford Township Environmental Commission;
  - d. Secretary, Winslow Township Planning Board;
  - e. Winslow Township Environmental Commission;
  - f. Camden County Planning Board;
  - g. Secretary, Town of Hammonton Planning Board;

- h. Town of Hammonton Environmental Commission; and
- i. Atlantic County Office of Policy, Planning, and Economic Development.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this Letter of Interpretation shall take effect.

If you are interested in the possible sale of your PDCs, please contact the Pinelands Development Credit Bank for further information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P. P.  
Director of Regulatory Programs

MEH:ED:CMH

- c: Secretary, Waterford Township Planning Board  
Waterford Township Environmental Commission  
Secretary, Winslow Township Planning Board  
Winslow Township Environmental Commission  
Camden County Planning Board  
Secretary, Town of Hammonton Planning Board  
Town of Hammonton Environmental Commission  
Atlantic County Office of Policy, Planning, and Economic Development  
Thomas Byrne, Executive Director, PDC Bank  
Betsy Piner  
Mary Hornor  
Allen Carter  
David C. Frank, Esq.

**AMENDED LETTER OF INTERPRETATION #1887**

August 1, 2006

Anthony D'Amato  
1147 Holly Ave.  
Williamstown, NJ 08094

Please Always Refer To  
This Application Number

Re:   Application # 1999-0221.002  
      Block 6311, Lot 1  
      Cedar Street  
      Winslow Township

**FINDINGS OF FACT**

The applicant owns the above referenced 8.79 acre lot in Winslow Township. This acreage is based upon the Township tax map. The lot is located in the Pinelands Agricultural Production Area. Pursuant to N.J.A.C. 7:50-4.72(a)1, the applicant is requesting an Amended Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs) which are attributed to this lot.

On May 26, 2006, the Commission issued LOI#1887 to the applicant allocating 0.50 PDCs to 10.71 acre Block 6311, Lot 1. This acreage was based upon a submitted deed. The applicant has submitted information demonstrating that two portions of the lot were sold prior to February 7, 1979 and the lot currently does not contain 10.71 acres, as indicated in the originally submitted deed. The Township tax map indicates the lot currently consists of 8.79 acres, not 10.71 acres. The applicant has requested an Amended LOI reflecting the PDC allocation based upon the 8.79 acreage. This Amended LOI#1887 replaces the previously issued LOI#1887.

The entire 8.79 lot is comprised of wooded uplands. The lot is vacant. There are no easements limiting the use of this parcel to non-residential uses. The lot was not in common ownership with any other contiguous lot on or after January 14, 1981. No resource extraction operation or development has been approved for this lot pursuant to the provisions of the Pinelands Comprehensive Management Plan (CMP).

\* 19990221. 002 \*

An application for the development of one single family dwelling on the above referenced lot was previously submitted to, but not completed with, the Commission (App. No. 1999-0221.001).

### **CONCLUSION**

The CMP grants, with certain exceptions, to every parcel of land in an Agricultural Production Area, a use right known as "Pinelands Development Credits," that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C. 7:50-5.43). None of these exceptions apply to this parcel.

The CMP establishes the ratio by which PDCs are allocated in an Agricultural Production Area (N.J.A.C. 7:50-5.43(b)2). Two PDCs are allocated for every 39 acres of uplands, except for uplands which are mined as a result of a resource extraction permit approved pursuant to the provisions of the CMP; for areas of active berry agricultural bogs and fields and for wetlands in active field agricultural use as of February 7, 1979. There are 0.2 PDCs allocated for every 39 acres of other wetlands.

For the 8.79 acres of the lot which are uplands, the applicant is entitled to 0.45 PDCs.

Therefore, there are 0.50 PDCs allocated to 8.79 acre Block 6311, Lot 1.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Pinelands Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by certified mail, of the appeal to the Commission. Said notice shall include:

1. the name and address of the person making the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by certified mail, on:
  - a. the applicant (unless the applicant is making the appeal);
  - b. Secretary, Winslow Township Planning Board;
  - c. Winslow Township Environmental Commission; and

d. Camden County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this Letter of Interpretation shall take effect.

If you are interested in the possible sale of your PDCs, please contact the Pinelands Development Credit Bank for further information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P. P.  
Director of Regulatory Programs

MEI/CMH

c: Secretary, Winslow Township Planning Board  
Winslow Township Environmental Commission  
Camden County Planning Board  
Guillermo Vivas, Acting Executive Director, PDC Bank  
Betsy Piner  
Mary Irvine

**LETTER OF INTERPRETATION #1894**

(Corrected Copy – Application Number)

August 7, 2006

Joseph James & Marie Inez Urso  
4 Taylor Ct  
Columbus NJ 08022

Please Always Refer To  
This Application Number

Re: Application # 1980-0002.002  
Block 2501, Lots 28-30  
Sooy Place Rd  
Woodland Township

**FINDINGS OF FACT**

The applicants own the above referenced 15.15 acre parcel in Woodland Township. This acreage is based on the submitted deeds. The parcel is located in a Pinelands Preservation Area District. Pursuant to N.J.A.C.. 7:50-4.72(a)2, the applicants are requesting a Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs ) which are attributed to this parcel.

The submitted application form for this LOI identifies the tax Block number as Block 13. A review of the Township tax map indicates that the tax Block number is Block 2501.

The 15.15 acre parcel consists of 13.99 acres of uplands. The remaining 1.16 acres are comprised of Atlantic white cedar swamp, hardwood swamp and pitch pine lowland. The parcel is vacant. There are no easements limiting the use of this parcel to non-residential uses. No resource extraction operation or development has been approved for this parcel pursuant to the provisions of the Pinelands Comprehensive Management Plan (CMP).

An application for the development of three single family dwellings on the parcel was previously denied by the Pinelands Commission on June 7, 1982 (Application #1980-0002.001).

**\* 19800002. 002 \***

### **CONCLUSION**

The CMP grants, with certain exceptions, to every parcel of land in an Preservation Area District, a use right known as "Pinelands Development Credits," (PDCs) that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C. 7:50-5.43). None of these exceptions apply to this parcel.

The CMP establishes the ratio by which Pinelands Development Credits are allocated in the Preservation Area District (N.J.A.C. 7:50-5.43(b)1). One Pinelands Development Credit is allocated for every 39 acres of upland, except for certain uplands which have been approved for resource extraction operations. There are 0.2 Pinelands Development Credits allocated for every 39 acres of wetlands.

For the 13.99 acres of uplands, the applicant is entitled to 0.36 PDCs.

The Atlantic white cedar swamp, hardwood swamp and pitch pine lowland are freshwater wetlands (N.J.A.C. 7:50-6.5(a)1, 2 & 3). For the 1.16 acres of freshwater wetlands, the applicant is entitled to 0.006 PDCs.

Therefore, there are 0.25 PDCs allocated to 15.15 acre Block 2501, Lots 28, 29 and 30 subject of this application.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Pinelands Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by certified mail, of the appeal to the Commission. Said notice shall include:

1. the name and address of the person making the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by certified mail, on:
  - a. the applicant (unless the applicant is making the appeal);
  - b. Secretary, Woodland Township Planning Board; and
  - c. Secretary, Burlington County Planning Board.



Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this Letter of Interpretation shall take effect.

If you are interested in the possible sale of your Pinelands Development Credits to the state through the Pinelands Development Credit Bank, please contact the Bank for information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P.P.  
Director of Regulatory Programs

AF/CMH

c: Secretary, Woodland Township Planning Board  
Burlington County Planning Board  
Executive Director, PDC Bank  
Betsy Piner  
Mary Irvine  
April Fijalkowski

**LETTER OF INTERPRETATION #1896**

August 1, 2006

Dorothy DiMeo Crawford  
366 Middle Rd  
Hammonton NJ 08037

Please Always Refer To  
This Application Number

Re: Application # 2006-0139.001  
Block 4703, Lot 3  
Middle Rd  
Town of Hammonton

**FINDINGS OF FACT**

The applicant owns the above referenced 18.01 acre lot the Town of Hammonton. The acreage of the lot is based upon the Township tax map. The lot is located partially in a Pinelands Town (4.01 acres) and partially in a Pinelands Agricultural Production Area (14.0 acres). Pursuant to N.J.A.C. 7:50-4.72(a)2, the applicant is requesting a Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs) which are attributed to this lot.

PDCs are not allocated to lands located in a Pinelands Town. Of the 14.0 acres of the lot located in the Agricultural Production Area, 13.31 acres are cleared uplands in active agriculture and 0.69 acres are a hardwood swamp. There is one existing single family dwelling located in the Pinelands Town portion of the lot. The applicant has represented that she wishes to develop two additional dwellings in the Pinelands Town portion of the lot. The lot is currently in common ownership with contiguous Block 4703, Lot 1. Block 4703, Lot 1 is located in a Pinelands Town. There are no easements limiting the use of this lot to non-residential uses. No resource extraction operation or other development has been approved for this parcel pursuant to the provisions of the Comprehensive Management Plan (CMP).

**\* 20060139. 001 \***

### **CONCLUSION**

The CMP grants, with certain exceptions, to every parcel of land in an Agricultural Production Area, a use right known as "Pinelands Development Credits," that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C. 7:50-5.43). None of these exceptions apply to this lot.

The CMP establishes the ratio by which PDCs are allocated in an Agricultural Production Area (N.J.A.C. 7:50-5.43(b)2). Two PDCs are allocated for every 39 acres of uplands, except for uplands which are mined as a result of a resource extraction permit approved pursuant to the provisions of the CMP; for areas of active berry agricultural bogs and fields and for wetlands in active field agricultural use as of February 7, 1979. There are 0.2 PDCs allocated for every 39 acres of other wetlands.

There are 0 PDCs allocated to the 4.01 acre portion of Block 4703, Lot 3 located in a Pinelands Town. The existing dwelling located in the Pinelands Town portion of Block 4703, Lot 3 and the applicant's representation that she wishes to develop two additional dwellings on the Pinelands Town portion of Block 4703, Lot 3 does not effect the allocation of PDCs to the portion of Block 4703, Lot 3 located in the Pinelands Agricultural Production Area.

For the 13.31 acres of Block 4703, Lot 3 that are cleared uplands in active agriculture, the applicants are entitled to 0.68 PDCs. The hardwood swamp is freshwater wetlands (N.J.A.C. 7:50-6.5(a)2). For the 0.69 acres of Block 4703, Lot 3 that are freshwater wetlands, the applicants are entitled to 0.004 PDCs.

However, when allocating PDCs to portions of an overall contiguous parcel in common ownership on or after January 14, 1981, the sum of the PDCs allocated to the separate portions of the parcel must equal the number of PDCs allocated to the overall parcel in common ownership on or after January 14, 1981. The lot subject of this LOI is currently in common ownership with contiguous Block 4703, Lot 1. Block 4703, Lot 1 is located in a Pinelands Town. PDCs are not allocated to lands located in a Pinelands Town.

Therefore, there are 0.75 PDCs allocated to the 18.01 acre Block 4703, Lot 3.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;

3. a brief statement of the basis of the appeal; and
4. a certificate of service (a notarized statement), indicating that service of the notice has been made by Certified mail, on:
  - a. the applicant (unless the applicant is requesting the appeal);
  - b. Secretary, Hammonton Planning Board;
  - c. Hammonton Environmental Commission;
  - d. Secretary, Atlantic County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this LOI shall take effect.

If you are interested in the possible sale of your PDCs, please contact the Pinelands Development Credit Bank for further information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P. P.  
Director of Regulatory Programs

AF/CH

c: Anthony DeMeo III  
Secretary, Hammonton Planning Board  
Hammonton Environmental Commission  
Secretary, Atlantic County Planning Board  
Betsy Piner  
Executive Director, PDC Bank  
Mary Irvine  
April Fijalkowski

## **LETTER OF INTERPRETATION #1897**

August 1, 2006

V&V Coroporation  
306 Main St  
Woodbridge NJ 07095

Please Always Refer To  
This Application Number

Re: Application # 2006-0213.001  
Block 7601, Lot 1  
Spring Road  
Winslow Township

### **FINDINGS OF FACT**

The applicant owns the above referenced 37.87 acre lot in Winslow Township. This acreage is based upon the submitted deed. The lot is located in a Pinelands Agricultural Production Area. Pursuant to N.J.A.C. 7:50-4.72(a)2, the applicant is requesting a Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs) which are attributed to the lot.

The lot consists of 16.85 acres of wooded uplands. The remaining 21.02 acres are freshwater wetlands consisting of a hardwood swamp and pitch pine lowlands. The lot was not in common ownership with any other contiguous lands on or after January 14, 1981. There are no easements limiting the use of this lot to non-residential uses. No resource extraction operation or other development has been approved for this lot pursuant to the provisions of the Comprehensive Management Plan (CMP).

### **CONCLUSION**

The CMP grants, with certain exceptions, to every parcel of land in an Agricultural Production Area, a use right known as "Pinelands Development Credits," that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C. 7:50-5.43). None of these exceptions apply to this lot.

**\* 20060213. 001 \***

The CMP establishes the ratio by which PDCs are allocated in an Agricultural Production Area (N.J.A.C. 7:50-5.43(b)2). Two PDCs are allocated for every 39 acres of uplands, except for uplands which are mined as a result of a resource extraction permit approved pursuant to the provisions of the CMP; for areas of active berry agricultural bogs and fields and for wetlands in active field agricultural use as of February 7, 1979. There are 0.2 PDCs allocated for every 39 acres of other wetlands.

For the 16.85 acres of the lot which are wooded uplands, the applicant is entitled to 0.86 PDCs.

The hardwood swamp and pitch pine lowlands are freshwater wetlands (N.J.A.C. 7:50-6.5 (a)2 & 3). For the 21.02 acres of freshwater wetlands, the applicant is entitled to 0.11 PDCs.

Therefore, there is 1.00 PDC allocated to 37.87 acre Block 7601, Lot 1.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Pinelands Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by certified mail, of the appeal to the Commission. Said notice shall include:

1. the name and address of the person making the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by certified mail, on:
  - a. the applicant (unless the applicant is making the appeal);
  - b. Secretary, Winslow Township Planning Board;
  - c. Winslow Township Environmental Commission; and
  - d. Secretary, Camden County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this Letter of Interpretation shall take effect.

If you are interested in the possible sale of your PDCs, please contact the Pinelands Development Credit Bank for further information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P. P.  
Director of Regulatory Programs

AF/CH

c: Edward Markowski  
Secretary, Winslow Township Planning Board  
Winslow Township Environmental Commission  
Secretary, Camden County Policy Board  
Executive Director, PDC Bank  
Betsy Piner  
Mary Irvine  
April Fijalkowski

**LETTER OF INTERPRETATION #1898**

August 7, 2006

Joseph James Welch  
793 St James Ct  
W Deptford NJ 08066

Please Always Refer To  
This Application Number

Re: Application # 1995-1417.002  
Block 2358, Lots 1 & 2  
Calvin St  
Lacey Township

**FINDINGS OF FACT**

The applicant owns the above referenced 0.09 acre parcel in Lacey Township. This acreage is based on the Township tax map. The parcel is located in the Pinelands Preservation Area District. Pursuant to N.J.A.C. 7:50-4.72(a)1, the applicant is requesting a Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs) which are attributed to this parcel.

The parcel consists of 0.09 acres of wooded uplands. The parcel is vacant. There are no easements limiting the use of this parcel to non-residential uses. The parcel was not in common ownership with any contiguous lots on or after February 7, 1979. The applicant and his spouse owned this parcel prior to February 7, 1979. The applicant has submitted information indicating that his spouse is deceased and that he is the executor of her estate. No resource extraction operation or development has been approved for this parcel pursuant to the provisions of the Pinelands Comprehensive Management Plan (CMP).

An application for a Waiver of Strict Compliance for the development of a single family dwelling was previously initiated, but not completed, with the Pinelands Commission (Application #1995-1417.001).

**\* 19951417. 002 \***



### **CONCLUSION**

The CMP grants, with certain exceptions, to every parcel of land in an Preservation Area District, a use right known as "Pinelands Development Credits," that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C. 7:50-5.43). None of these exceptions apply to this parcel.

The CMP establishes the ratio by which PDCs are allocated in an Preservation Area District (N.J.A.C. 7:50-5.43(b)1). One PDC is allocated for every 39 acres of uplands, except for uplands which have been approved for resource extraction operations. There are 0.2 PDCs allocated for every 39 acres of other wetlands.

For the 0.09 acres of uplands, the applicant would be entitled to 0.002 PDCs.

The CMP provides that the owners of land as of February 8, 1979, of any parcel of land containing at least 0.1 acres in the Preservation Area District are entitled to 0.25 PDCs provided that the parcel is vacant, not in common ownership with any contiguous land on February 7, 1979 (N.J.A.C. 7:50-5.43(b)4) and has not been sold or transferred except to a member of the owner's immediate family. The applicant has submitted information indicating that the applicant and his spouse owned this parcel prior to February 7, 1979. However, because the parcel is less than 0.1 acre, it does not meet this requirement.

The CMP also provides that the owners of parcels of land which are smaller than 39 acres shall have fractional PDCs allocated at the same ratio as established in N.J.A.C. 7:50-5.43(b)2 (N.J.A.C. 7:50-5.43(c)).

Therefore, there are 0.002 PDCs allocated to 0.09 acre Block 2358, Lots 1 and 2 subject of this application.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Pinelands Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by certified mail, of the appeal to the Commission. Said notice shall include:

1. the name and address of the person making the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by certified mail, on:

- a. the applicant (unless the applicant is making the appeal);
- b. Secretary, Lacey Township Planning Board; and
- c. Secretary, Ocean County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this Letter of Interpretation shall take effect.

If you are interested in the possible sale of your PDCs, please contact the Pinelands Development Credit Bank for further information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P.P.  
Director of Regulatory Programs

AF/CMH

c: Secretary, Lacey Township Planning Board  
Ocean County Planning Board  
Executive Director, PDC Bank  
Grace De Siervo, Coldwell Banker  
Betsy Piner  
Mary Irvine  
April Fijalkowski

## **LETTER OF INTERPRETATION #1899**

August 9, 2006

Alice Kaltman-Glasel  
350 Albany Street, Apt. 10A  
New York, NY 10280

Please Always Refer To  
This Application Number

Re: Application # 2000-0166.001  
Block 96E, Lot 2  
Block 100, Lot 169  
Coal Road  
Bass River Township

### **FINDINGS OF FACT**

The applicant owns the above referenced 49.2 acre parcel in Bass River Township. This acreage is based on the Township tax map. The parcel is located in the Pinelands Preservation Area District. Pursuant to N.J.A.C. 7:50-4.72(a)2, the applicant is requesting a Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs ) which are attributed to this parcel.

The parcel consists of 41.76 acres of wooded uplands. The remaining 7.44 acres are freshwater wetlands comprised of Atlantic white cedar swamps, hardwood swamps and pitch pine lowlands. The parcel is vacant. The parcel was not in common ownership with any other contiguous lands on or after January 14, 1981. There are no easements limiting the use of this parcel to non-residential uses. No resource extraction operation or other development has been approved for this lot pursuant to the provisions of the Comprehensive Management Plan (CMP).

An application for a three lot subdivision and the development of three single family dwellings on the above referenced parcel has been initiated, but not completed, with the Commission (App. No. 2000-0166.0002P). The applicant is not reserving the right to construct these three dwellings.

### **CONCLUSION**

**\* 20000166. 001 \***

The CMP grants, with certain exceptions, to every parcel of land in the Preservation Area District, a use right known as "Pinelands Development Credits," (PDCs) that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C. 7:50-5.43). None of these exceptions apply to this parcel.

The CMP establishes the ratio by which Pinelands Development Credits are allocated in the Preservation Area District (N.J.A.C. 7:50-5.43(b)1). One Pinelands Development Credit is allocated for every 39 acres of upland, except for certain uplands which have been approved for resource extraction operations. There are 0.2 Pinelands Development Credits allocated for every 39 acres of wetlands.

For the 41.76 acres of the parcel which are uplands, the applicant is entitled to 1.07 PDCs. The Atlantic white cedar swamp, hardwood swamps and pitch pine lowlands are freshwater wetlands (N.J.A.C. 7:50-6.5(a)1-3). For the 7.44 acres of freshwater wetlands, the applicant is entitled to 0.04 PDCs.

With respect to just Block 100, Lot 169, comprised of 22.56 acres of uplands and 7.44 acres of freshwater wetlands, there are 0.50 PDCs allocated to Block 100, Lot 169.

With respect to just Block 96E, Lot 2, comprised entirely of 19.2 acres of uplands, there are 0.50 PDCs allocated to Block 96E, Lot 2.

The overall 49.2 acre parcel comprised of Block 100, Lot 169 and Block 96E, Lot 2 is allocated 1.0 PDCs.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Pinelands Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by certified mail, of the appeal to the Commission. Said notice shall include:

1. the name and address of the person making the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by certified mail, on:
  - a. the applicant (unless the applicant is making the appeal);
  - b. Secretary, Bass River Township Planning Board; and

c. Secretary, Burlington County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this Letter of Interpretation shall take effect.

If you are interested in the possible sale of your Pinelands Development Credits to the state through the Pinelands Development Credit Bank, please contact the Bank for information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P.P.  
Director of Regulatory Programs

MEI/CMH

c: Secretary, Bass River Township Planning Board  
Burlington County Planning Board  
Guillermo Vivas, Acting Executive Director, PDC Bank  
Betsy Piner  
Mary Irvine  
Jan L. Wouters

## **LETTER OF INTERPRETATION #1900**

August 16, 2006

Eileen S. Maida  
125 Springmeadow Dr  
Holbrook NY 11741

Please Always Refer To  
This Application Number

Re: Application # 1996-1656.002  
Block 2201, Lots 6-10  
Schwartz Ave  
Woodland Township

### **FINDINGS OF FACT**

The applicant owns the above referenced 0.29 acre parcel in Woodland Township. This acreage is based on the Township tax map. The parcel is located in the Pinelands Preservation Area District. Pursuant to N.J.A.C. 7:50-4.72(a)1, the applicant is requesting a Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs) which are attributed to this parcel.

The parcel consists of 0.29 acres of wooded uplands. The parcel is vacant. There are no easements limiting the use of this parcel to non-residential uses. The parcel was not in common ownership with any contiguous lots on or after February 7, 1979. The applicants's father, defined by the CMP as an immediate family member, owned this lot prior to February 7, 1979. No resource extraction operation or development has been approved for this parcel pursuant to the provisions of the Pinelands Comprehensive Management Plan (CMP).

### **CONCLUSION**

The CMP grants, with certain exceptions, to every parcel of land in an Preservation Area District, a use right known as "Pinelands Development Credits," that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C. 7:50-5.43). None of these exceptions apply to this parcel.

The CMP establishes the ratio by which PDCs are allocated in an Preservation Area

**\* 19961656. 002 \***

District (N.J.A.C. 7:50-5.43(b)1). One PDC is allocated for every 39 acres of uplands, except for uplands which have been approved for resource extraction operations. There are 0.2 PDCs allocated for every 39 acres of other wetlands.

For the 0.29 acres of uplands, the applicant would be entitled to 0.007 PDCs.

However, the CMP provides that the owners of land as of February 8, 1979, of any parcel of land containing at least 0.1 acres in the Preservation Area are entitled to 0.25 PDCs provided that the parcel is vacant, not in common ownership with any contiguous land on February 7, 1979 (N.J.A.C. 7:50-5.43(b)4) and has not been sold or transferred except to a member of the owner's immediate family. The applicant has submitted information indicating that the applicant's father, an immediate family member, owned this parcel prior to February 7, 1979. Therefore, the applicant meets this requirement.

The CMP also provides that the total allocations made pursuant to N.J.A.C. 7:50-5.43(b)4 or 5 for any one owner shall not exceed 0.50 PDCs (N.J.A.C. 7:50-5.43(b)6). At such time as the application of N.J.A.C. 7:50-5.43(b)4 or 5 would exceed a total allocation of 0.50 PDCs to an owner, all remaining lands of that owner in excess of that needed to yield the 0.50 PDC allocation shall be entitled to a fractional allocation of PDCs at the same ratio established in N.J.A.C. 7:50-5.43(b)1.

Therefore, there are 0.25 PDCs allocated to 0.29 acre Block 2201, Lots 6-10 subject of this application.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Pinelands Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by certified mail, of the appeal to the Commission. Said notice shall include:

1. the name and address of the person making the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice has been made by certified mail, on:
  - a. the applicant (unless the applicant is making the appeal);
  - b. Secretary, Woodland Township Planning Board; and

c. Secretary, Burlington County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this Letter of Interpretation shall take effect.

If you are interested in the possible sale of your PDCs, please contact the Pinelands Development Credit Bank for further information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P.P.  
Director of Regulatory Programs

AF/CMH

c: Secretary, Woodland Township Planning Board  
Burlington County Planning Board  
Executive Director, PDC Bank  
Betsy Piner  
Mary Irvine  
April Fijalkowski



## **LETTER OF INTERPRETATION #1901**

August 22, 2006

Anthony N. Briganti  
Margaret Fennessy  
Rose Briganti  
9135 Penelope Dr.  
Brooksville, FL 34613

Please Always Refer To  
This Application Number

Re: Application # 1991-0377.001  
Block 1808, Lots 23-32  
14<sup>th</sup> Street  
Woodland Township

### **FINDINGS OF FACT**

The applicants own the above referenced 0.57 acre parcel in Woodland Township. This acreage is based on the Township tax map. The parcel is located in the Pinelands Preservation Area District. Pursuant to N.J.A.C. 7:50-4.72(a)1, the applicants are requesting a Letter of Interpretation (LOI) as to the number of Pinelands Development Credits (PDCs) which are attributed to this parcel.

The parcel consists of 0.57 acres of wooded uplands. The parcel is vacant. There are no easements limiting the use of this parcel to non-residential uses. The parcel was not in common ownership with any contiguous lots on or after February 7, 1979. Joseph Baldo owned the parcel prior to February 7, 1979. Rose Briganti, Joseph Baldo's sister, is defined by the Pinelands Comprehensive Management Plan (CMP) as an immediate family member. Joseph Baldo is the uncle, also defined by the CMP as an immediate family member, of Margaret Fennessy and Anthony N. Briganti, the children of Rose Briganti. No resource extraction operation or development has been approved for this parcel pursuant to the provisions of the CMP.

### **CONCLUSION**

The CMP grants, with certain exceptions, to every parcel of land in an Preservation Area

**\* 19910377. 001 \***

District, a use right known as "Pinelands Development Credits," that can be used to secure a density bonus for lands located in Regional Growth Areas (N.J.A.C. 7:50-5.43). None of these exceptions apply to this parcel.

The CMP establishes the ratio by which PDCs are allocated in an Preservation Area District (N.J.A.C. 7:50-5.43(b)1). One PDC is allocated for every 39 acres of uplands, except for uplands which have been approved for resource extraction operations. There are 0.2 PDCs allocated for every 39 acres of other wetlands.

For the 0.57 acres of uplands, the applicant would be entitled to 0.01 PDCs.

However, the CMP provides that the owners of land as of February 8, 1979, of any parcel of land containing at least 0.1 acres in the Preservation Area are entitled to 0.25 PDCs provided that the parcel is vacant, not in common ownership with any contiguous land on February 7, 1979 (N.J.A.C. 7:50-5.43(b)4) and has not been sold or transferred except to a member of the owner's immediate family. The applicants have submitted information indicating that the applicants' brother and uncle, an immediate family member as defined by the CMP, owned this parcel prior to February 7, 1979. Therefore, the applicants meet this requirement.

The CMP also provides that the total allocations made pursuant to N.J.A.C. 7:50-5.43(b)4 or 5 for any one owner shall not exceed 0.50 PDCs (N.J.A.C. 7:50-5.43(b)6). At such time as the application of N.J.A.C. 7:50-5.43(b)4 or 5 would exceed a total allocation of 0.50 PDCs to an owner, all remaining lands of that owner in excess of that needed to yield the 0.50 PDC allocation shall be entitled to a fractional allocation of PDCs at the same ratio established in N.J.A.C. 7:50-5.43(b)1. The property owner has not previously been allocated PDCs based upon N.J.A.C. 7:50-5.43(b)4 or 5.

Therefore, there are 0.25 PDCs allocated to 0.57 acre Block 1808, Lots 23-32 subject of this application.

### **APPEAL**

Any interested person may appeal the Executive Director's determination on this application to the Pinelands Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by certified mail, of the appeal to the Commission. Said notice shall include:

1. the name and address of the person making the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice

has been made by certified mail, on:

- a. the applicant (unless the applicant is making the appeal);
- b. Secretary, Woodland Township Planning Board; and
- c. Secretary, Burlington County Planning Board.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, this Letter of Interpretation shall take effect.

If you are interested in the possible sale of your PDCs, please contact the Pinelands Development Credit Bank for further information at:

Pinelands Development Credit Bank  
PO Box 035  
Trenton, NJ 08625  
609-984-0569 ext. 50282

Sincerely,

Charles M. Horner, P.P.  
Director of Regulatory Programs

MEI/CMH

c: Secretary, Woodland Township Planning Board  
Burlington County Planning Board  
Executive Director, PDC Bank  
Betsy Piner  
Mary Irvine

**RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION**

**NO. PC4-06-**\_\_\_\_\_

**TITLE:** Issuing an Order to Certify Ordinances 4-2006 and 9-2006, Adopting the January 2006 Richland Village Redevelopment Plan and Amending the Zoning Map of Buena Vista Township

**Commissioner** \_\_\_\_\_ **moves and Commissioner** \_\_\_\_\_  
**seconds the motion that:**

**WHEREAS**, on July 12, 1991, the Pinelands Commission fully certified the Master Plan and codified Land Use Ordinances of Buena Vista Township; and

**WHEREAS**, Resolution #PC4-91-97 of the Pinelands Commission specified that any amendment to the Township’s certified Master Plan and codified Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

**WHEREAS**, Resolution #PC4-91-97 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

**WHEREAS**, on March 13, 2006, Buena Vista Township adopted Ordinance 4-2006, adopting a Redevelopment Plan for the Richland Village Redevelopment Area within Buena Vista Township and amending the Township’s zoning map to reflect the location of the new Redevelopment Area; and

**WHEREAS**, on July 10, 2006, Buena Vista Township adopted Ordinance 9-2006, amending Ordinance 4-2006 by clarifying standards in the Redevelopment Plan and adopting a revised schedule of land use, area and bulk regulations which will apply to development in the Redevelopment Area; and

**WHEREAS**, the Pinelands Commission received an adopted copy of Ordinance 4-2006 on March 13, 2006 and an adopted copy of Ordinance 9-2006 on July 12, 2006; and

**WHEREAS**, by letter dated July 17, 2006, the Executive Director notified the Township that Ordinances 4-2006 and 9-2006 would require formal review and approval by the Pinelands Commission; and

**WHEREAS**, a public hearing to receive testimony on Ordinances 4-2006 and 9-2006 was duly advertised, noticed and held on August 8, 2006 at the Buena Vista Township Municipal Building, Harding Highway, Buena, New Jersey at 7:00 p.m.; and

**WHEREAS**, the Executive Director has found that Ordinances 4-2006 and 9-2006 are consistent with the standards and provisions of the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Executive Director has submitted a report to the Commission recommending the issuance of an order to certify that Ordinances 4-2006 and 9-2006, adopting the January 2006 Richland Village Redevelopment Plan and amending the Zoning Map of Buena Vista Township, are in conformance with the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Commission’s CMP Policy and Implementation Committee has reviewed the Executive Director’s report and has recommended that Ordinances 4-2006 and 9-2006 be certified; and

**WHEREAS**, the Pinelands Commission has duly considered all public testimony concerning Ordinances 4-2006 and 9-2006 and has reviewed the Executive Director’s report; and

**WHEREAS**, the Pinelands Commission accepts the recommendation of the Executive Director; and

**WHEREAS**, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE BE IT RESOLVED** that

1. An Order is hereby issued to certify that Ordinances 4-2006 and 9-2006, adopting the January 2006 Richland Village Redevelopment Plan and amending the Zoning Map of Buena Vista Township, are in conformance with the Pinelands Comprehensive Management Plan.
2. Any additional amendments to the Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

Record of Commission Votes

AYE	NAY	NP	ABS	AYE	NAY	NP	ABS	AYE	NAY	NP	ABS
Ashmun				Hagaman				Tomasello			
Brown				Lee				Witt			
Campbell				Lloyd				Wuillermín			
Ficcaglia				McIntosh				Wilson			
Haas				Slavin							

Adopted at a meeting of the Pinelands Commission

Date: \_\_\_\_\_

John C. Stokes  
Executive Director

Betty Wilson  
Chair

**REPORT ON ORDINANCES 4-2006 AND 9-2006, ADOPTING  
THE JANUARY 2006 RICHLAND VILLAGE REDEVELOPMENT PLAN AND  
AMENDING THE ZONING ORDINANCE OF BUENA VISTA TOWNSHIP**

August 25, 2006

Buena Vista Township  
890 Harding Highway  
P.O. Box 605  
Buena, NJ 08310

**FINDINGS OF FACT**

I. **Background**

The Township of Buena Vista is located in the west central portion of the Pinelands Area, in southwestern Atlantic County. Pinelands municipalities adjacent to Buena Vista Township's Pinelands Area include the Townships of Franklin and Monroe in Gloucester County, the Boroughs of Buena and Folsom and the Townships of Weymouth and Hamilton in Atlantic County and the Township of Maurice River and the City of Vineland in Cumberland County.

On July 11, 1991, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Buena Vista Township.

On March 13, 2006, Buena Vista Township adopted Ordinance 4-2006, approving a Redevelopment Plan for the Richland Village Redevelopment Area within Buena Vista Township, dated January 2006. Ordinance 4-2006 also revises the Township's Zoning Map to reflect the location of the new Redevelopment Area. This Redevelopment Area, previously established by the Buena Vista Township Committee through its adoption of Resolution 118-2005, encompasses approximately 190 acres of land in the PVRC (Pinelands Village Residence/Commerce) and PVR2 (Pinelands Village Residential) Districts. Finally, Ordinance

4-2006 adopts a detailed land use plan, including permitted uses, site development standards and design guidelines, which will now govern development in the Redevelopment Area. Ordinance 9-2006, adopted by the Township on July 10, 2006, amends Ordinance 4-2006 by clarifying various standards and provisions in the Redevelopment Plan and adopting a revised schedule of recommended land use and area and bulk regulations which will apply to development within the Redevelopment Area. The Pinelands Commission received adopted copies of Ordinances 4-2006 and 9-2006 on March 13, 2006 and July 11, 2006, respectively.

By letter dated July 17, 2006, the Executive Director notified the Township that Ordinances 4-2006 and 9-2006 would require formal review and approval by the Pinelands Commission.

## II. Master Plans and Land Use Ordinances

The following documents have been submitted to the Pinelands Commission for certification and review:

- \* Ordinance 4-2006, adopting a Redevelopment Plan for the Richland Village Redevelopment Area, adopted by the Buena Vista Township Committee on March 13, 2006; and
- \* Ordinance 9-2006, amending Ordinance 4-2006, adopted by the Buena Vista Township Committee on July 10, 2006.

These ordinances have been reviewed to determine whether they conform with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50-3.39 of the Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

### **1. Natural Resource Inventory**

Not applicable.

### **2. Required Provisions of Master Plans and Land Use Ordinances Relating to Development Standards**

Ordinance 4-2006 adopts a Redevelopment Plan for Richland Village within Buena Vista Township, dated January 2006. This Redevelopment Area, situated along U.S. Route 40, is within the Pinelands Village of Richland and overlays the existing PVRC

(Pinelands Village Residence/ Commerce) and PVR2 (Pinelands Village Residential) Districts (see map attached as Exhibit #1). A total of approximately 190 acres is incorporated in the Redevelopment Area, of which at least 70 acres are currently under municipal ownership. Permitted uses in the Redevelopment Area include commercial, museum/exhibit, agriculture and mixed use. Residential development, both single family and age-restricted housing, is permitted provided it is part of a mixed use project with a commercial component.

Within the Redevelopment Area, all development on parcels 10 acres or larger in size (contingent upon access to a community or package sewer treatment plant) must meet the site development and building design standards (e.g. minimum lot area, floor area ratio, maximum lot coverage) contained within the Redevelopment Plan. All development on parcels less than 10 acres must comply with the existing land use and area and bulk standards of the underlying PRVC and PVR2 zoning districts, unless otherwise noted in the Redevelopment Plan. A variety of detailed design standards are also set forth in the Redevelopment Plan and will apply to all development in the Redevelopment Area, regardless of parcel size.

Ordinance 9-2006 adopts an amended schedule of land use and area and bulk regulations which will apply within the Redevelopment Area. These regulations are intended to control the intensity of development which may occur within the Redevelopment Area in order to maintain consistency with the requirements for Pinelands Villages set forth in N.J.A.C. 7:50-5.16(a). Specifically, this section of the Comprehensive Management Plan requires that Pinelands Villages be delineated and regulated by master plans and ordinances so that they do not provide for an additional increment of development which is greater than the number of non-accessory structures that existed in the Village prior to adoption of the Comprehensive Management Plan. The number of such structures in Richland Village is estimated to be 143.

Since the Redevelopment Plan encourages both residential and non-residential development, maximum build-out in the Redevelopment Area was determined by estimating the potential wastewater flows that could be generated within the entire Village. Therefore, in order to maintain appropriate limitations on potential Village growth, the minimum lot area for residential development in that portion of the Village located in the Redevelopment Area was set at 32,670 square feet (3/4 acre) and the maximum floor area ratio was set at 10% (5% for parcels less than 10 acres). Under these requirements, wastewater flows will not more than double the estimated original flows for Richland Village, regardless of the type of development which ultimately occurs, as is indicated on the chart attached as Exhibit #2. Any development within the Redevelopment Area can utilize the floor area ratio or minimum lot area from other non-contiguous lands within the Redevelopment Area,



thereby encouraging compact development and still not more than doubling the intensity of permitted development in the Village.

N.J.A.C. 7:50-5.16(a) also requires that municipal master plans and land use ordinances ensure that designated Pinelands Village areas maintain their existing character. The design guidelines set forth in the Redevelopment Plan encourage site development and building design that meet this requirement. In addition, the design guidelines contained in the Redevelopment Plan reference the Secretary of the Interior’s Standards for Rehabilitation of Historic Buildings. Since historic resources have been inventoried and documented within the Redevelopment Area, the Redevelopment Plan requires that all future redevelopment be carried out in adherence with the Secretary of the Interior’s Standards for Rehabilitation of Historic Buildings and the standards outlined in N.J.A.C. 7:50-6, Part XV, Historic, Archaeological and Cultural Preservation, of the Comprehensive Management Plan. Standards specific to development within the Richland Village Area include providing for preservation in place and rehabilitation of historic structures rather than refurbishment. These standards will be applied during the review of specific applications for development in the Redevelopment Area when they are submitted to the Commission.

Ordinances 4-2006 and 9-2006 are consistent with the land use and development standards of the Comprehensive Management Plan. Therefore, this standard for certification is met.

**3. Requirement for Certificate of Filing and Content of Development Applications**

Not applicable.

**4. Requirement for Municipal Review and Action on All Development**

Not applicable.

**5. Review and Action on Forestry Applications**

Not applicable.

**6. Review of Local Permits**

Not applicable.

**7. Requirement for Capital Improvement Program**

Not applicable.

**8. Accommodation of Pinelands Development Credits**

Not applicable.

**9. Referral of Development Applications to Environmental Commission**

Not applicable.

**10. General Conformance Requirements**

Ordinances 4-2006 and 9-2006 comply with the standards and provisions of the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

**11. Conformance with Energy Conservation**

Not applicable.

**12. Conformance with the Federal Act**

Ordinances 4-2006 and 9-2006 comply with the standards and provisions of the Pinelands Comprehensive Management Plan. No issues exist relative to conformance with the Federal Act. Therefore, this standard for certification is met.

**13. Procedure to Resolve Intermunicipal Conflicts**

Lands affected by Ordinances 4-2006 and 9-2006 are not adjacent to any other municipalities. Therefore, intermunicipal conflicts are not expected to occur and this standard is met.

## **PUBLIC HEARING**

A public hearing to receive testimony concerning Buena Vista Township's application for certification of Ordinances 4-2006 and 9-2006 was duly advertised, noticed and held on August 8, 2006 at the Buena Vista Township Municipal Building, 890 Harding Highway, Buena, New Jersey, at 7:00 p.m. Six people attended. Mr. Liggett conducted the hearing, at which the following testimony was received:

Melissa Baker, representing Karabashian/Eddington Associates, stated that the purpose of the redevelopment plan is to encourage economic development in an area consistent with existing development, and to bring services to an area where they aren't currently available. The Township is hoping to use the railroad as a general point of interest, with the goal of encouraging folks going through the municipality to stop and spend the day in Richland.

Mark Demitroff, a resident of Richland Village, stated that he was not in favor of the ordinances as written. He stated that the Township did not proceed with the ordinances in an open fashion but rather conducted the process "in stealth." He stated that he believed he and others had been misled by the Township as to the goals and anticipated outcomes of the redevelopment plan.

Mr. Demitroff then made a short presentation (see attached Exhibit #3). He stated that the redevelopment project has divided the residents of Richland Village and that many people are afraid of what might happen. He stated that the information initially provided by the Township to the residents proved to be inaccurate as the plan was changed. He stated that residents thought the redevelopment plan called for only small-scale new uses; however, the mayor now says he is seeking multimillion dollar rateables. Mr. Demitroff stated that a cultural resource management plan should be prepared for Richland so that everyone will be better able to understand why Richland is so special. The customary economic systems in Richland, such as the Richland General Store, need to be preserved. He does not want to see an Eckerd's drug store in Richland. A balance of residential and commercial uses is what is needed. In addition, "credits" should be preserved for local businesses and residents instead of giving all the new development potential to one developer.

Mr. Demitroff then discussed his concerns with environmental dynamics. He stated that if new uses are to be built in Richland, they must be built in an environmentally sensitive manner. He referred to a 1931 wetlands map which shows wetlands in some portions of the redevelopment area, wetlands which again showed up on the map in 1978 but which are no longer there. He stated that the problem is that this area has a dropping groundwater table and suggested that this is a regional problem. Mr. Demitroff submitted two reports which he has authored on this issue as well as a number of newspaper articles (see Exhibit #3). He stated that the CMP has a big hole in it because if people just wait

long enough, wetlands will dry up and development can occur. This will ultimately cause havoc with the environment.

Mr. Demitroff concluded by stating that he was not against development but simply wanted cultural and environmental resources to be considered and protected. He stated that the Township should not be so quick to change things. Buena Vista is a good place and everyone needs to tread carefully so that the relics of old times are not lost. He stated that the redevelopment plan is a wonderful project but we cannot let Richland become another strip mall.

Mayor Chuck Chiarello stated that the last thing the redevelopment project has been is hidden or closed to the public. He noted that six public hearings had been held by the Township and that these were well attended. Differing opinions had been offered; however, the overall response from the municipal residents was positive.

Mayor Chiarello stated that the redevelopment plan serves several goals - to preserve history and community heritage while allowing for new development, jobs and ratables. He stated that the Township's goal has been to preserve the existing historic characteristics of Richland. Only conceptual planning has been done to date; the municipality has no idea as to actual interest in the redevelopment area or what specific projects might be proposed. The Township does not want to see additional residential development in the area or a traditional Transit Village. Mayor Chiarello noted that development in the redevelopment area will be required to occur on 10 acre parcels. He stated that the wetlands referred to by Mr. Demitroff have not shown up on any maps since the time the Commission was created. The Township is optimistic that it will be able to attract some new ratables to the community. A few million dollars in ratables does not really equate to that much new development. Mayor Chiarello concluded by stating that the Township has successfully sought a number of grants to facilitate the project and is proud of what has been accomplished thus far.

Mike Rivera, a resident of Richland Village and a member of the Township Committee, questioned whether the Commission staff foresaw any significant future changes in permitted densities for Buena Vista Township, perhaps similar to the densities now mandated in Hamilton Township. Upon hearing Mr. Liggett's response that such changes were unlikely, Mr. Rivera acknowledged that this had been the basis of some of the concerns expressed by Township residents with the redevelopment plan. He stated that the Township has tried to make this an open process from the beginning. No one wants to create an urban setting or ruin the theme or feel of Richland. The redevelopment plan will only improve things and enhance the existing character of the village. Mr. Rivera concluded by stating that he was more than willing to listen to and discuss any input which the community might have.

Dolores Comparri, a long-time resident of Richland, stated that some of the existing buildings in Richland are deteriorating. She stated that she hoped the redevelopment plan would result in these buildings being used so that the existing structures might be

revitalized, thereby giving a real boost to the residents. She stated that Richland used to be a bustling town and she would love to see that recaptured.

Mr. Demitroff stated that the residents like Richland and that it is first and foremost a place for the locals. He questioned whether the Commission would be willing to approve redevelopment plans in other Pinelands Villages such as New Lisbon or Chatworth. He stated that the Commission should be careful about what new doors might be opened through its actions on the Richland Redevelopment Plan.

Mayor Chiarello stated that the Commission will ultimately have control over how much can happen in Richland, not so much what it will look like but in terms of the number of new structures and permitted densities. He stated that the Township is not asking that CMP standards be exceeded; the redevelopment plan is consistent with CMP limitations for Pinelands Villages.

There being no further testimony, the hearing was concluded at 7:40 p.m.

Written comments on Ordinances 4-2006 and 9-2006 were accepted until August 11, 2006 and were received from the following individual:

August 9, 2006 email from Mark Demitroff with attachments (see attached Exhibit #4)

### **EXECUTIVE DIRECTOR'S RESPONSE**

A number of issues were raised during the public hearing concerning the Richland Village Redevelopment Plan, among them the adequacy of the Township's efforts to notify and involve the public and whether or not the Redevelopment Plan has the full support of the community. While these are certainly issues of importance at the local level, they are not matters which affect the consistency of the Redevelopment Plan with the Comprehensive Management Plan and therefore are not the subject of this report.

It was also submitted that the Redevelopment Plan provides the potential for "rampant growth" in Richland Village and that the Commission's approval of such a plan would set a precedent which could adversely affect other Pinelands Villages in the future. The Executive Director disagrees. Controls on the intensity of permitted development have been carefully incorporated in the Richland Village Redevelopment Plan to ensure that the amount, type and character of future development is not only compatible with existing development but also limited in size and scale to that which the Comprehensive Management Plan (N.J.A.C. 7:50-5.16(a)) defines as appropriate for a Pinelands Village. Buena Vista Township should be commended for taking the initiative to plan for the future of Richland Village. Indeed, many of the components of the Redevelopment Plan (mixed use development, community wastewater treatment, concentration of development

potential in an appropriate portion of the village) are things which the Executive Director would hope other municipalities will consider for their Pinelands Village areas.

A concern was also raised with wetlands in a portion of the Redevelopment Area, wetlands which are not currently present but which were depicted on various maps as far back as 1931 and as recently as 1978. While certainly of interest to the Commission, the issue of historic wetlands is well beyond the scope of this ordinance review process. The zoning plan currently in place for Richland Village allows for both residential and commercial development in the area in question. The Redevelopment Plan adopted by Ordinances 4-2006 and 9-2006 allows for these same types of development in the area, subject to additional design standards. With or without the Redevelopment Plan, the Comprehensive Management Plan and Buena Vista Township's land use ordinances prohibit development in wetlands and within required wetlands buffer areas. If wetlands are present on a site proposed for development in the Redevelopment Area, their location will be determined in the field based on soils and vegetation and their protection will be required as a condition of any development approval.

### **CONCLUSION**

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinances 4-2006 and 9-2006 comply with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify the Ordinances 4-2006 and 9-2006 of Buena Vista Township.

TS/CBV  
Attachments

***RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION***

**NO. PC4-05-**\_\_\_\_\_

**TITLE:** Issuing an Order to Certify Ordinance 1653-2006, Amending the Certified Land Management Ordinance of Galloway Township

**Commissioner** \_\_\_\_\_ **moves and Commissioner** \_\_\_\_\_  
**seconds the motion that:**

**WHEREAS**, on March 6, 1987, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of the Township of Galloway; and

**WHEREAS**, Resolution #PC4-89-132 of the Pinelands Commission specified that any amendment to the Township’s certified Master Plan and Land Use Ordinances be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 (Submission and Review of Amendments to Certified Master Plans and Land Use Ordinances) of the Comprehensive Management Plan to determine if said amendment raises a substantial issue with respect to conformance with the Pinelands Comprehensive Management Plan; and

**WHEREAS**, Resolution #PC4-89-132 further specified that any such amendment shall only become effective as provided in N.J.A.C. 7:50-3.45 of the Comprehensive Management Plan; and

**WHEREAS**, on June 28, 2005, Galloway Township adopted Ordinance 1613-2005, amending Chapter 233 (Land Management Ordinance) of the Township’s Code by deleting Section 233-74 R5 Rural Development District in its entirety and replacing it with a new section; and

**WHEREAS**, the Pinelands Commission received a certified copy of Ordinance 1613-2005 on July 1, 2005; and

**WHEREAS**, after expressing concerns with a number of the provisions included in Ordinance 1613-2005, Commission staff met with Township representatives on several occasions and ultimately drafted ordinance revisions for the municipality’s consideration; and

**WHEREAS**, by letter dated December 15, 2005, Galloway Township requested an extension of the Commission’s review period for Ordinance 1613-2005 to provide the Township and Commission staff with a continued opportunity to discuss the ordinance and necessary revisions; and

**WHEREAS**, by letter dated December 16, 2005, the Executive Director notified the Township that an extension was granted until April 1, 2006; and

**WHEREAS**, on May 9, 2006, Galloway Township adopted Ordinance 1653-2006, amending the Township’s certified Land Management Ordinance by deleting Section 233-74 R5 Rural Development District in its entirety and replacing it with a new section; and

**WHEREAS**, the Pinelands Commission received a certified copy of Ordinance 1653-2006 on May 17, 2006; and

**WHEREAS**, by letter dated June 8, 2006, the Executive Director notified the Township that Ordinance 1653-2006 would require formal review and approval by the Pinelands Commission; and

**WHEREAS**, the Executive Director has found that Ordinance 1653-2006 is consistent with the provisions of the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Executive Director has submitted a report to the Commission recommending the issuance of an order to certify that Ordinance 1653-2006, amending the certified Land Management Ordinance of Galloway Township, is in conformance with the Pinelands Comprehensive Management Plan; and

**WHEREAS**, the Commission’s CMP Policy and Implementation Committee has reviewed the Executive Director’s report and has recommended that Ordinance 1653-2006 be fully certified; and

**WHEREAS**, a public hearing to receive testimony on Ordinance 1653-2006 was duly advertised, noticed and held on July 12, 2006 at the Pinelands Commission office, 15 Springfield Road, New Lisbon, New Jersey; and

**WHEREAS**, the Pinelands Commission has duly considered all public testimony concerning Ordinance 1653-2006 and has reviewed the Executive Director’s report; and

**WHEREAS**, the Pinelands Commission accepts the recommendation of the Executive Director; and

**WHEREAS**, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE, BE IT RESOLVED** that:

- 1. An Order is hereby issued to certify that Ordinance 1653-2006, amending the certified Land Management Ordinance of Galloway Township, is in conformance with the Comprehensive Management Plan.
- 2. Any additional amendments to the Township’s certified Master Plan and Land Use Ordinances shall be submitted to the Executive Director in accordance with N.J.A.C. 7:50-3.45 to determine if said amendments raise a substantial issue with respect to the Comprehensive Management Plan. Any such amendment shall become effective only as provided in N.J.A.C. 7:50-3.45.

**Record of Commission Votes**

AYE				NAY				NP				ABS			
Ashmun				Hagaman				Tomasello							
Brown				Lee				Witt							
Campbell				Lloyd				Wuillermin							
Ficcaglia				McIntosh				Wilson							
Haas				Slavin											

Adopted at a meeting of the Pinelands Commission Date: \_\_\_\_\_

John C. Stokes  
Executive Director

Betty Wilson  
Chair



**REPORT ON ORDINANCES 1613-2005 AND 1653-2006**  
**AMENDING CHAPTER 233 (LAND MANAGEMENT ORDINANCE)**  
**OF THE CODE OF GALLOWAY TOWNSHIP**

August 25, 2006

Galloway Township  
Municipal Building  
300 E. Jimmie Leeds Rd.  
Galloway, NJ 08205

**FINDINGS OF FACT**

I. **Background**

The Township of Galloway is located in the southeastern portion of the Pinelands Area in Atlantic County. Pinelands municipalities adjacent to Galloway Township include Port Republic City and Egg Harbor City, and the Townships of Hamilton, Egg Harbor and Mullica in Atlantic County, as well as Washington and Bass River Townships in Burlington County.

On March 6, 1987, the Pinelands Commission fully certified the Master Plan and Land Use Ordinances of Galloway Township.

On June 28, 2005, Galloway Township adopted Ordinance 1613-2005, amending Chapter 233 (Land Management Ordinance) of the Township's Code by deleting Section 233-74 R5 Rural Development District in its entirety and replacing it with a new section. The Pinelands Commission received a certified copy of Ordinance 1613-2005 on July 1, 2005.

After expressing concerns with a number of the provisions included in Ordinance 1613-2005, Commission staff met with Township representatives on several occasions and ultimately drafted ordinance revisions for the municipality's consideration.

By letter dated December 15, 2005, Galloway Township requested an extension of the Commission's review period for Ordinance 1613-2005 to provide the Township and Commission staff with a continued opportunity to discuss the ordinance and necessary revisions. By letter dated December 16, 2005, the Executive Director notified the Township that an extension was granted until April 1, 2006.

On May 9, 2006, Galloway Township adopted Ordinance 1653-2006, amending Chapter 233 (Land Management Ordinance) of the Township's Code by deleting Section 233-74 R5 Rural Development District in its entirety and replacing it with a new section. Ordinance 1653-2006 supersedes Ordinance 1613-2005 in its entirety and incorporates all the changes suggested by Commission staff. The Pinelands Commission received a certified copy of Ordinance 1653-2006 on May 17, 2006.

By letter dated June 8, 2006, the Executive Director notified the Township that Ordinance 1653-2006 would require formal review and approval by the Pinelands Commission.

## II. Master Plans and Land Use Ordinances

The following ordinance has been submitted to the Pinelands Commission for certification:

- \* Ordinance 1653-2006, amending Chapter 233 (Land Management Ordinance) of the Code of Galloway Township, introduced on April 25, 2006 and adopted on May 9, 2006

This ordinance has been reviewed to determine whether it conforms with the standards for certification of municipal master plans and land use ordinances as set out in N.J.A.C. 7:50-3.39 of the Pinelands Comprehensive Management Plan. The findings from this review are presented below. The numbers used to designate the respective items correspond to the numbers used to identify the standards in N.J.A.C. 7:50-3.39.

### **1. Natural Resource Inventory**

Not applicable.

### **2. Required Provisions of Land Use Ordinances Relating to Development Standards**

Ordinance 1653-2006 supplants Section 233-74 of the Land Management Ordinance, establishing more specific density requirements for the R5 Rural Development District. The only change to by-right uses in the R5 District is that the new Section 233-74 only allows “seasonal signs,” whereas the existing Section 233-74 allows “signs.” This change is meant to improve and preserve the existing rural character of the region, by decreasing roadside clutter.

A Great Blue Heron rookery exists on a portion of the R5 District. To protect this rare rookery, Galloway Township created the R5C - Rural Development Cluster Overlay Zone (see Exhibit #1). The R5C Zone was established when the Commission originally certified Galloway’s master plan and land use ordinances in 1987. As certified in 1987, the R5C Zone allows for sewerred residential and nonresidential development in that portion of the R5C Zone not designated as Protected Rookery Area. The Protected Rookery Area is defined as the wooded area between Genoa Ave., Duerer St., Zurich Ave., Pomona Rd. and Jimmie Leeds Rd. Noncontiguous lands may be used to satisfy the density requirements of development, “provided such lands are located within the Protected Rookery Area and are subsequently deed restricted as open space to preclude any future development.”

The R5C Zone contains a total of approximately 300 acres, 125 in the Protected Rookery Area. In November 2005, approximately 39 acres in the Protected Rookery Area were acquired and permanently protected by Galloway Township to facilitate development of a new school along Jimmie Leeds Rd. east of the Protected Rookery Area. Also in November 2005, Galloway Township purchased an additional approximately 29 acres in the Protected Rookery Area, with funding assistance from the Commission’s CMCMUA Land Acquisition Program. Slightly over half of the Protected Rookery Area is therefore preserved.

The Township adopted Ordinance 1653-2006 to clarify the provisions of the R5C Zone, particularly in terms of what can occur within the Protected Rookery Area. Ordinance 1653-2006 increases the number of Conditional Uses in Section 233-74. Under existing regulations, only residential and planned office development may occur in the R5C Zone. Proposed conditional uses in the R5C Zone include residential development, planned office, community commercial and institutions of learning. Existing regulations allow residential clustering in the Protected Rookery Area. Ordinance 1653-2006 *requires* clustering (on minimum 1 acre; maximum 3.2 acres lots) within the Protected Rookery Area, and mandates that dwelling units may only be constructed along existing roads. All other development within the R5C Zone, including planned office, community commercial and institutions of learning, must occur outside the Protected Rookery Area. In addition to allowing these uses in the R5C Zone, the proposed regulations seek greater preservation of the Protected Rookery Area. Each of the conditional uses is strictly regulated, with planned office,

community commercial and institutions of learning only allowed 900 square feet of development for each gross acre of land. The gross acre of land can include noncontiguous lands within the Protected Rookery Area.

Section 7:50-6.34 of the CMP states that, “All development or other authorized activity shall be carried out in a manner which avoids disturbance of fish and wildlife habitats that are essential to the continued nesting, resting, breeding and feeding of significant populations of fish and wildlife in the Pinelands.” Unfortunately, there are no definitive scientific studies outlining how much land is essential to the survival of a Great Blue Heron rookery. Staff believes that a satisfactory compromise with the Township is allowing some development on existing infrastructure, while requiring that any development taking place in the vicinity must also deed restrict land for the benefit of the rookery. The overall effect on the R5C Zone is greater preservation combined with greater development. This proposed cluster overlay is a microcosm of the Pinelands Area as a whole. To preserve the more sensitive region (heron rookery), development is encouraged on the outskirts. The transfer program within the R5C Zone is similar to the density transfer program authorized in the Rural Development Area pursuant to N.J.A.C. 7:50-5.30, although it has been expanded to include nonresidential uses.

Ordinance 1653-2006 effectively tightens the development allowed in the R5C Zone. The proposed regulations allow for new and different development, but along existing roads and at clustered densities. The goal is to minimize disturbance of the Protected Rookery Area.

Ordinance 1653-2006 is consistent with the land use and development standards of the Comprehensive Management Plan. This standard for certification is met.

**3. Requirement for Certificate of Filing and Content of Development Applications**

Not applicable.

**4. Requirement for Municipal Review and Action on All Development**

Not applicable.

**5. Review and Action on Forestry Applications**

Not applicable.

**6. Review of Local Permits**

Not applicable.

**7. Requirement for Capital Improvement Program**

Not applicable.

**8. Accommodation of Pinelands Development Credits**

Not applicable.

**9. Referral of Development Applications to Environmental Commission**

Not applicable.

**10. General Conformance Requirements**

Ordinance 1653-2006, amending Chapter 233 (Land Management Ordinance) of the Code of Galloway Township, complies with the standards and provisions of the Pinelands Comprehensive Management Plan. Therefore, this standard for certification is met.

**11. Conformance with Energy Conservation**

Not applicable.

**12. Conformance with the Federal Act**

Ordinance 1653-2006, amending Chapter 233 (Land Management Ordinance) of the Code of Galloway Township, complies with the standards and provisions of the Pinelands Comprehensive Management Plan. No issues exist relative to conformance with the Federal Act. Therefore, this standard for certification is met.

**13. Procedure to Resolve Intermunicipal Conflicts**

Not applicable.

**PUBLIC HEARING**

A public hearing to receive testimony concerning Galloway Township's application for certification of Ordinance 1653-2006 was duly advertised, noticed and held on July 12, 2006 at the Richard J. Sullivan Center, 15C Springfield Road, New Lisbon, New Jersey at 9:30 a.m. Ms. Grogan conducted the hearing, at which no public testimony was received.

Written comments on Ordinance 1653-2006 were accepted through July 12, 2006 and one was submitted by the following party:

July 11, 2006 letter from Alan Dill, a local resident (see Exhibit #2)

**CONCLUSION**

Based on the Findings of Fact cited above, the Executive Director has concluded that Ordinance 1653-2006 complies with Comprehensive Management Plan standards for the certification of municipal master plans and land use ordinances. Accordingly, the Executive Director recommends that the Commission issue an order to certify Ordinance 1653-2006 of Galloway Township.

/CGA

Attachments

## ***M E M O R A N D U M***

**DATE:** August 28, 2006

**TO:** Pinelands Commission

**FROM:** MacGregor Stocco, AICP  
Resource Planner

**SUBJECT:** Pinelands Conservation Fund

?????

At the May 2006 PLP Committee meeting, Committee members approved of staff sending out an RFP for a Program Facilitator for the Land Acquisition Program of the Pinelands Conservation Fund. Proposals were due on August 7, 2006, and we received one bid, from Conservation Resources Inc. (CRI). We requested participation from the Department of Environmental Protection on the review committee. At this time, nobody from that organization has been appointed to sit on the review committee. We believe it is important to make these funds accessible as soon as possible, and therefore convened a review committee composed solely of Commission staff members. This review committee examined the bid, and unanimously agreed to recommend that the Commission award a contract to Conservation Resources Inc. Positive aspects of the bid include:

- CRI does not itself purchase land, and therefore would not be a direct applicant for Fund money
- CRI staff have extensive experience in New Jersey land acquisition, including the Pinelands Area
- CRI has assisted in closing on land acquisition projects both large and small, some in excess of \$10 million and involving over 5 partners

Conservation Resources Inc. bid to provide services for 2.25% (\$135,000) of the total amount in the Land Acquisition Program of the Pinelands Conservation Fund (\$6 million). This is slightly higher than staff anticipated, but reasonable given the fact that the Program Facilitator assumes all responsibility for the projects and will not be paid until the day of closing.

Please find attached a resolution allowing the Executive Director to enter into a contract with Conservation Resources Inc.

/A7  
Encl.

***RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION***

**NO. PC4-06-**\_\_\_\_\_

**TITLE:**       To Authorize the Executive Director to Enter Into a Contract for a Program Facilitator to Assist in Implementing the Land Acquisition Program of the Pinelands Conservation Fund

**Commissioner** \_\_\_\_\_ **moves and Commissioner** \_\_\_\_\_  
**seconds the motion that:**

**WHEREAS,** the Pinelands Conservation Fund was established in 2004 pursuant to the Pinelands Commission’s Memorandum of Agreement with the New Jersey Board of Public Utilities; and

**WHEREAS,** Resolution PC4-05-25 authorized the use of monies in the Fund for the three principal objectives of land acquisition, conservation planning and research, and community planning and design; and

**WHEREAS,** the Permanent Land Protection Committee has recommended that the best method of successfully achieving the land acquisition objective is to hire a Program Facilitator; and

**WHEREAS,** Request for Proposal (RFP) #06-0003, dated 6/26/06, to procure these professional services was prepared and was advertised in the Commission’s five official newspapers and on the Commission’s web site; and

**WHEREAS,** the RFP was mailed to 16 prospective bidders; and

**WHEREAS,** the Commission received a technical proposal from one consultant, Conservation Resources Inc., by the receipt time of 1:00 p.m. on August 7, 2006, as specified in the RFP; and

**WHEREAS,** an evaluation committee comprised of representatives from the Pinelands Commission staff met on August 16, 2006 to discuss findings from their review of the technical proposal; and

**WHEREAS,** the evaluation committee unanimously agreed to recommend award of the contract to Conservation Resources Inc. for an amount not to exceed \$135,000; and

**WHEREAS,** the cost to hire the Program Facilitator represents 2.25% of the \$6 million available for land acquisition; and

**WHEREAS,** the Program Facilitator will be paid 2.25% of each land acquisition cost at the time of closing and;

**WHEREAS,** the FY 2007 budget for the Pinelands Conservation Fund includes \$40,000 for the services of the Program Facilitator anticipated to be provided during this fiscal year; and

**WHEREAS,** the Commission’s Permanent Land Protection Committee has reviewed and endorsed the recommendation of the evaluation committee; and

**WHEREAS,** the By-Laws of the Pinelands Commission call for the Commission’s approval for goods and services in excess of the threshold stipulated in N.J.S.A. 52:25-23, currently \$29,000; and



**WHEREAS**, pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval.

**NOW, THEREFORE, BE IT RESOLVED** that the Executive Director is authorized to enter into a contract for a Program Facilitator with Conservation Resources Inc. in an amount not to exceed \$135,000 to be paid at the rate of 2.25% of each land acquisition cost at the time of closing.

Record of Commission Votes

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Ashmun					Hagaman					Tomasello				
Brown					Lee					Witt				
Campbell					Lloyd					Wuillermin				
Ficcaglia					McIntosh					Wilson				
Haas					Slavin									

Adopted at a meeting of the Pinelands Commission

Date: \_\_\_\_\_

\_\_\_\_\_

John C. Stokes  
Executive Director

\_\_\_\_\_

Betty Wilson  
Chair



# ***RESOLUTION OF THE NEW JERSEY PINELANDS COMMISSION***

**NO. PC4-06-\_\_\_\_\_**

**TITLE:** To Authorize a Revision to the 2004 Stipulation of Settlement Regarding the Sanctuary Development

**Commissioner \_\_\_\_\_ moves and Commissioner \_\_\_\_\_**  
**seconds the motion that:**

**WHEREAS,** the Pinelands Commission authorized a settlement in a matter then pending before the United States District Court, entitled Ivelin, L.P. and Iva Samost v. State of New Jersey Pinelands Commission, through Resolution No. PC4-04-74, dated November 12, 2004; and

**WHEREAS,** the settlement pertained to the Comprehensive Management Plan's threatened and endangered species protection standards, specifically the Northern Pine Snake; and

**WHEREAS,** the executed Stipulation of Settlement provides that, among other measures, five sets of single box culverts (dimensions 4 feet tall by 12 feet wide with a 6 inch spacer) be installed under Georgia O'Keefe Way; and

**WHEREAS,** the Stipulation of Settlement further provides that detailed engineering drawings of the road, reflecting the culverts and other specified design measures, be submitted for approval by the Executive Director; and

**WHEREAS,** the developer has requested that one set of box culverts be reduced in height from 4 feet to 3 feet because proper clearance overtop an existing water main would require that the profile of the road be raised approximately 2 feet above the existing sheet pile dam, an outcome which would necessitate reconstruction of the dam and possibly affect emergency spillway capacity and elevation; and

**WHEREAS,** reconstruction of the existing sheet pile dam can be avoided by reducing the height of one set of box culverts by 1 foot; and

**WHEREAS,** in light of the above, the Executive Director recommends that the Pinelands Commission authorize this change to the Stipulation of Settlement; and

**WHEREAS,** pursuant to N.J.S.A. 13:18A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become

**NOW, THEREFORE BE IT RESOLVED** that the Executive Director is authorized to execute an amendment to the Stipulation of Settlement in this matter to provide that the culverts at station 33 and 30 may be 3 feet in height.

**Record of Commission Votes**

	AYE	NAY	NP	ABS		AYE	NAY	NP	ABS		AYE	NAY	NP	ABS
Achmun					Hagaman					Tomasello				

**MEMORANDUM**

**DATE:** August 29, 2006

**TO:** Members of the Pinelands Commission

**FROM:** Susan R. Grogan, P.P., AICP  
Chief Planner

**SUBJECT:** No Substantial Issue Ordinances

? ? ? ? ?

During the past month, we reviewed seven ordinances which we found to raise no substantial issues with respect to the standards of the Pinelands Comprehensive Management Plan. These were:

**Buena Vista Township Ordinance 14-1997** - adopts Chapter 96 (All-Terrain Vehicles) of the Township’s Code. Included in this code chapter are restrictions on the operation and use of motorcycles, dirt bikes and all-terrain vehicles, among them a prohibition on the operation of such vehicles on public lands. All-terrain vehicles are further restricted from operation on public streets or highways except in limited cases where access to adjacent areas is necessary. Written consent for the operation of motorcycles or all-terrain vehicles on private property must be obtained from the owner of said property. Ordinance 14-1997 also establishes penalties for the violation of any provision in Chapter 96.

**Lacey Township Ordinance 06-38** - amends Chapter 335 (Zoning) of the Township’s Code by revising the definition of “Building Height” and adding a definition for “Building Height, Accessory” in order to distinguish between the definitions of height for principal vs. accessory buildings. These definitions are applicable in both the Pinelands and non-Pinelands portions of the Township.

**Lacey Township Ordinance 06-39** - amends Chapter 215 (Land Use Procedures) of with respect to properties requiring variances by virtue of not abutting an improved street. Such variance applications require the submission of materials in addition to those items listed in the general administrative checklist, including the plan and profile of the proposed access road, the identification of all existing stormwater management facilities that would be affected by the access road and all those proposed stormwater management facilities that are necessitated by the improvement as well as appropriate stormwater calculations.

**Pemberton Township Ordinance 7-2006** - amends Chapter 190 (Zoning) of the Township's Code by requiring that all new residential developments create bikeways with the location based upon probable volume of bicycle traffic generated by the new development.

**Pemberton Township Ordinance 8-2006** - amends Chapter 190 by requiring sidewalks in all new residential developments, as well as on nonresidential streets were deemed necessary by the Planning/Zoning Board.

**Pemberton Township Ordinance 9-2006** - amends Chapter 190 by adding a new section on off-tract improvements which requires that applicants for new development pay their pro-rata share of off-tract utility and recreation improvements.

**Tabernacle Township Ordinance 2006-5** - amends Chapter 17 (Zoning) of the Township's Code by revising standards for accessory buildings. Specifically, Ordinance 2006-5 clarifies the maximum permitted square footage of accessory buildings in relation to the size of the lot on which they are located. In addition, although Chapter 17 previously exempted farm related buildings on farmland-assessed properties in the Agricultural Production and Special Agricultural Production Zones from these accessory building size limitations, Ordinance 2006-5 retains the exemption only for such buildings in the Agricultural Production Zone.

We will have copies of the above-discussed amendments available at the Commission meeting should you wish to review them in greater detail.